

(d) [(f)] Any contract election may be held at the same time as and in conjunction with an election to issue bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

SECTION 20.03. Subchapter D, Chapter 366, Health and Safety Code, is amended by adding Section 366.0512 to read as follows:

*Sec. 366.0512. MULTIPLE TREATMENT SYSTEMS. A multiple system of treatment devices and disposal facilities may be permitted as an on-site disposal system under this chapter if the system:*

- (1) is located on a tract of land of at least 100 acres in size;*
- (2) produces not more than 5,000 gallons a day on an annual average basis;*
- (3) is used only on a seasonal or intermittent basis; and*
- (4) is used only for disposal of sewage produced on the tract of land on which any part of the system is located.*

Passed by the House on April 20, 2001, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2912 on May 17, 2001, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2912 on May 27, 2001: Yeas 100, Nays 42, 2 present, not voting; and that the House adopted H.C.R. No. 331 authorizing certain corrections in H.B. No. 2912 on May 28, 2001, by a non-record vote; passed by the Senate, with amendments, on May 14, 2001, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2912 on May 27, 2001, by a viva-voce vote; and that the Senate adopted H.C.R. No. 331 authorizing certain corrections in H.B. No. 2912 on May 28, 2001, by a viva-voce vote.

Approved June 14, 2001.

Effective September 1, 2001, unless otherwise provided.

## CHAPTER 966

S.B. No. 2

### AN ACT

relating to the development and management of the water resources of the state, including the ratification of the creation of certain groundwater conservation districts; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

### ARTICLE 1. TEXAS WATER ADVISORY COUNCIL

SECTION 1.01. Subtitle A, Title 2, Water Code, is amended by adding Chapter 9 to read as follows:

#### CHAPTER 9. TEXAS WATER ADVISORY COUNCIL

*Sec. 9.001. DEFINITIONS. In this chapter:*

- (1) "Authority" means an entity listed in Section 9.010(b).*
- (2) "Board" means the governing body of an authority.*
- (3) "Commission" means the Texas Natural Resource Conservation Commission.*

*(4) "Conjunctive use" means the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.*

*(5) "Council" means the Texas Water Advisory Council.*

*Sec. 9.002. CREATION AND MEMBERSHIP. (a) The council consists of 13 members as follows:*

*(1) the chairman, or a board member designated by the chairman, of the Texas Water Development Board;*

*(2) the chairman, or a commissioner designated by the chairman, of the commission;*

*(3) the chairman, or a commissioner designated by the chairman, of the Parks and Wildlife Commission;*

*(4) the commissioner of agriculture;*

*(5) the commissioner of the General Land Office;*

*(6) three members of the house of representatives appointed by the speaker of the house of representatives;*

*(7) two members of the senate appointed by the lieutenant governor; and*

*(8) three members of the general public appointed by the governor, one representing groundwater management, one representing surface water management, and one representing the environmental community.*

*(b) Council members may not delegate participation or council duties to staff.*

*Sec. 9.003. TERMS. (a) Except for the commissioner of the General Land Office and the commissioner of agriculture, council members who are officials of state agencies serve terms as determined by the chairman of each agency.*

*(b) Council members who are members of the general public serve staggered six-year terms with the term of one member expiring August 31 of each odd-numbered year.*

*(c) Council members may be reappointed to serve additional terms.*

*(d) A vacancy on the council shall be filled by appointment by the original appointing authority for the unexpired term.*

*Sec. 9.004. OFFICERS OF THE COUNCIL. (a) The governor shall appoint a council member as the chair of the council for a two-year term expiring May 31 of each even-numbered year.*

*(b) The council shall have a secretary of the council who serves at the pleasure of the council and is accountable only to the council.*

*Sec. 9.005. COUNCIL STAFF. On request by the council, the commission, the Parks and Wildlife Department, the Department of Agriculture, and the Texas Water Development Board shall provide any staff other than the secretary of the council necessary to assist the council in the performance of its duties.*

*Sec. 9.006. MEETINGS. (a) The council shall meet at least once in each calendar quarter. Six members constitute a quorum.*

*(b) The council is subject to Chapters 551 and 2001, Government Code.*

*Sec. 9.007. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.*

*(b) Reimbursement under Subsection (a) is subject to the approval of the chair.*

*Sec. 9.008. POWERS AND DUTIES OF COUNCIL. (a) The council shall:*

*(1) heighten the level of dialogue on significant water policy issues and, in an advisory role only, strive to provide focus and recommendations on state water policy initiatives, including:*

(A) *promoting flexibility and incentives for water desalination, brush control, regionalization, weather modification projects, and public-private partnerships relating to water projects;*

(B) *promoting adequate financing for surface water and groundwater projects;*

(C) *development of water conservation and drought management projects;*

(D) *implementation of approved regional and state water plans;*

(E) *encouraging commonality of technical data and information such as joint agency studies, freshwater inflow recommendations, surface water and groundwater availability models, and bay and estuary and instream flow recommendations developed by the Parks and Wildlife Department, the commission, and the Texas Water Development Board; and*

(F) *encouraging the use of supplemental environmental projects for water infrastructure needs and enhancing the aquatic environment and habitat in enforcement proceedings at a state agency or political subdivision;*

(2) *encourage the enhancement and coordination of state, interstate, and international efforts to improve environmental quality and living conditions along the Texas-Mexico border;*

(3) *coordinate a unified state position on federal and international water issues; and*

(4) *advise the Texas Water Development Board on developing criteria for prioritizing the funding of projects in the state water plan.*

(b) *The council may not:*

(1) *adopt rules;*

(2) *regulate water use, water quality, or any other aspect of water resource management;*

(3) *plan or construct water resource projects or have such projects planned or constructed;*

(4) *grant or lend money for the construction of water resource projects;*

(5) *establish water resource management standards or otherwise usurp the authority of or infringe upon the duties, responsibilities, or powers of local, regional, or state water management entities, including groundwater districts, river authorities and compacts, regional water planning groups, or member agencies of the council; or*

(6) *consider or discuss a specific permit or project or recommendation for a project until the water permit has been issued by the state and all motions for rehearing have been overruled.*

Sec. 9.009. **REPORT.** *Not later than December 1 of each even-numbered year, the council shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives and to the senate and house standing committees with primary responsibility over water resource management and financing. The report must include findings of the council made in the periodic reviews of authorities during the preceding two-year period and any other findings and recommendations the council considers necessary.*

Sec. 9.010. **ANALYSIS OF AUTHORITIES.** (a) *On a five-year cycle, each authority shall provide the council with the information required by Sections 9.011 and 9.012. The information shall be provided to the council in the order of groups described in Subsection (b), with the information submitted by group 1 by the council's first quarterly meeting of the five-year period and group 2 submitted by the council's third quarterly meeting of the period. The council shall continue in numerical order to receive the information by each group at every other quarterly meeting until all 10 groups have been completed and then shall recommence the cycle.*

(b) *Authorities shall provide the information under Subsection (a) in the following groups:*

(1) *in group 1, Northeast Texas Municipal Water District;*

(2) in group 2, Angelina and Neches River Authority, Lower Neches Valley Authority, Sabine River Authority, and Upper Neches River Municipal Water Authority;

(3) in group 3, Red River Authority of Texas, Sulphur River Municipal Water District, and Sulphur River Basin Authority;

(4) in group 4, San Jacinto River Authority, Gulf Coast Water Authority, and North Harris County Regional Water Authority;

(5) in group 5, North Texas Municipal Water District, Tarrant Regional Water District, Trinity River Authority of Texas, and Dallas County Utility and Reclamation District;

(6) in group 6, Brazos River Authority, West Central Texas Municipal Water District, and North Central Texas Municipal Water Authority;

(7) in group 7, Guadalupe-Blanco River Authority, Lavaca-Navidad River Authority, Lower Colorado River Authority, and Upper Guadalupe River Authority;

(8) in group 8, Nueces River Authority, San Antonio River Authority, and Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1;

(9) in group 9, Colorado River Municipal Water District, Central Colorado River Authority, and Upper Colorado River Authority; and

(10) in group 10, Canadian River Municipal Water Authority and Mackenzie Municipal Water Authority.

(c) The council may not require an authority under this section to submit the information required under Section 9.012 more than once every five years. The council may, however, request an authority that has submitted information to provide follow-up information on any specific item or issue raised during the initial council analysis.

(d) The council, on a request by an authority, may modify the schedule in order to have the flexibility in scheduling the information submittal and council analysis, if needed, to be more responsive to particular circumstances, changing conditions, or time-sensitive conflicts.

Sec. 9.011. **PERFORMANCE STANDARDS.** (a) Before its five-year analysis under Section 9.010, an authority shall report to the council a self-assessment of:

(1) how the authority is achieving its stated mission and goals, including an identification of any barriers to achieving the mission and goals;

(2) how the authority is providing service to its customers, including mechanisms the authority provides to encourage input from the public and its customers;

(3) how the authority is addressing issues raised by its most recent management audit, if the audit is required by commission rule to be performed, including its administrative policies; and

(4) the authority's role in the regional water planning process.

(b) The authority's report to the council under this section must include recommendations related to:

(1) any interregional issues the authority has identified as problematic and any potential solutions to those issues; and

(2) solutions to any barriers the authority determines are interfering with the successful implementation of the approved regional water plan or state water plan.

Sec. 9.012. **ADMINISTRATIVE POLICIES FOR AUTHORITIES.** The commission shall expand the applicability of its rules under 30 T.A.C. Chapter 292 to include all the authorities subject to this chapter. The commission shall provide the council with copies of the most recent information provided by each authority in accordance with its administrative rules.

Sec. 9.013. **GIFTS AND GRANTS.** The council may accept gifts and grants from any source to carry out the purposes of this chapter. The use of gifts and grants other than legislative appropriations is subject only to limitations contained in the gift or grant.

Sec. 9.014. **FUNDING.** (a) The interagency water advisory account is a special account in the general revenue fund.

(b) *The interagency water advisory account consists of legislative appropriations, gifts and grants received under Section 9.013, and other money required by law to be deposited in the account.*

(c) *Money in the interagency water advisory account may be used only as provided by this chapter.*

*Sec. 9.015. CONTINUING RIGHT OF SUPERVISION. Nothing in this chapter affects the continuing right of supervision over authorities by the commission as provided by Section 12.081.*

*Sec. 9.016. PUBLIC PARTICIPATION. The council shall encourage public input regarding the exercise of its powers and duties under Section 9.008, its preparation of the report described in Section 9.009, and its analysis of authorities under Sections 9.010 and 9.011.*

*Sec. 9.017. DISSOLUTION OF COUNCIL AND ACCOUNT. Unless extended by the 78th Texas Legislature, this chapter and the interagency water advisory account expire on September 1, 2005.*

## ARTICLE 2. SURFACE WATER AND GROUNDWATER CONJUNCTIVE MANAGEMENT; REGULATORY INCENTIVES

SECTION 2.01. Section 11.002, Water Code, is amended by adding Subdivisions (11), (12), (13), and (14) to read as follows:

(11) *"River basin" means a river or coastal basin designated by the board as a river basin under Section 16.051. The term does not include waters originating in bays or arms of the Gulf of Mexico.*

(12) *"Agriculture" means any of the following activities:*

(A) *cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;*

(B) *the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;*

(C) *raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;*

(D) *raising or keeping equine animals;*

(E) *wildlife management; and*

(F) *planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.*

(13) *"Agricultural use" means any use or activity involving agriculture, including irrigation.*

(14) *"Nursery grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.*

SECTION 2.02. Subsection (a), Section 11.023, Water Code, is amended to read as follows:

(a) State water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) *agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;*

- (3) ~~irrigation~~;
- ~~[(4)]~~ mining and recovery of minerals;
- (4) ~~[(5)]~~ hydroelectric power;
- (5) ~~[(6)]~~ navigation;
- (6) ~~[(7)]~~ recreation and pleasure;
- (7) ~~[(8)]~~ stock raising;
- ~~[(9)]~~ public parks; and
- (8) ~~[(10)]~~ game preserves.

SECTION 2.03. Section 11.024, Water Code, is amended to read as follows:

Sec. 11.024. APPROPRIATION: PREFERENCES. In order to conserve and properly utilize state water, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses, and it is therefore declared to be the public policy of this state that in appropriating state water preference shall be given to the following uses in the order named:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals, it being the public policy of the state and for the benefit of the greatest number of people that in the appropriation of water as herein defined, the appropriation of water for domestic and municipal uses shall be and remain superior to the rights of the state to appropriate the same for all other purposes;

(2) *agricultural uses* and industrial uses, *which means* ~~meaning~~ processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

- (3) ~~irrigation~~;
- ~~[(4)]~~ mining and recovery of minerals;
- (4) ~~[(5)]~~ hydroelectric power;
- (5) ~~[(6)]~~ navigation;
- (6) ~~[(7)]~~ recreation and pleasure; and
- (7) ~~[(8)]~~ other beneficial uses.

SECTION 2.04. Section 11.038, Water Code, is amended to read as follows:

Sec. 11.038. RIGHTS OF OWNERS OF LAND ADJOINING CANAL, ETC. (a) A person who owns or holds a possessory interest in land adjoining or contiguous to a canal, ditch, flume, lateral, dam, reservoir, or lake constructed and maintained under the provisions of this chapter and who has secured a right to the use of water in the canal, ditch, flume, lateral, dam, reservoir, or lake is entitled to be supplied from the canal, ditch, flume, lateral, dam, reservoir, or lake with water ~~[for irrigation of the land and]~~ for *agricultural uses*, mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of *the person's* ~~his~~ contract.

(b) If the person, association of persons, or corporation owning or controlling the water and the person who owns or holds a possessory interest in the adjoining land cannot agree on a price for a permanent water right or for the use of enough water for irrigation of the person's land or for *agricultural uses*, mining, milling, manufacturing, development of power, or stock raising, then the party owning or controlling the water, if *the person* ~~he~~ has any water not contracted to others, shall furnish the water necessary for these purposes at reasonable and nondiscriminatory prices.

SECTION 2.05. Subsection (p), Section 11.085, Water Code, is amended to read as follows:

(p) ~~[For the purposes of this section, a basin is designated as provided in accordance with Section 16.051 of this code.]~~ A river basin may not be redesignated in order to allow a transfer or diversion of water otherwise in violation of this section.

SECTION 2.06. Section 11.088, Water Code, is amended to read as follows:

Sec. 11.088. DESTRUCTION OF WATERWORKS. No person may wilfully cut, dig, break down, destroy, or injure or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for ~~[irrigation,]~~ milling, mining, manufacturing, the development of power, domestic purposes, *agricultural uses*, or stock raising, with intent to:

- (1) maliciously injure a person, association, corporation, water improvement or irrigation district;
- (2) gain advantage for himself; or
- (3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

SECTION 2.07. Subsection (a), Section 11.122, Water Code, is amended to read as follows:

(a) All holders of permits, certified filings, and certificates of adjudication issued under Section 11.323 of this code shall obtain from the commission authority to change the place of use, purpose of use, point of diversion, rate of diversion, acreage to be irrigated, or otherwise alter a water right. *Without obtaining an amendment, the holder of a permit, certified filing, or certificate of adjudication that includes industrial or irrigation use may use or supply water for an agricultural use that was classified as industrial or irrigation before September 1, 2001.*

SECTION 2.08. Subsection (b), Section 11.134, Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;
- (2) unappropriated water is available in the source of supply;
- (3) the proposed appropriation:
  - (A) is intended for a beneficial use;
  - (B) does not impair existing water rights or vested riparian rights;
  - (C) is not detrimental to the public welfare;
  - (D) considers the *assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152* ~~[effects of any hydrological connection between surface water and groundwater]~~; and
  - (E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant ~~[an]~~ approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and
- (4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by Subdivision (8)(B), Section 11.002~~[of this code]~~.

SECTION 2.09. Section 11.142, Water Code, is amended to read as follows:

Sec. 11.142. PERMIT EXEMPTIONS. (a) Without obtaining a permit, a person may construct on *the person's* ~~[his]~~ own property a dam or reservoir with normal storage of not more than 200 acre-feet of water for domestic and livestock purposes. *A person who temporarily stores more than 200 acre-feet of water in a dam or reservoir described by this subsection is not required to obtain a permit for the dam or reservoir if the person can demonstrate that the person has not stored in the dam or reservoir more than 200 acre-feet of water on average in any 12-month period. This exemption does not apply to a commercial operation.*

(b) *Without obtaining a permit, a person may construct on the person's property a dam or reservoir with normal storage of not more than 200 acre-feet of water for fish and wildlife purposes if the property on which the dam or reservoir will be constructed is qualified open-*

*space land, as defined by Section 23.51, Tax Code. This exemption does not apply to a commercial operation.*

(c) Without obtaining a permit, a person who is drilling and producing petroleum and conducting operations associated with drilling and producing petroleum may take for those purposes state water from the Gulf of Mexico and adjacent bays and arms of the Gulf of Mexico in an amount not to exceed one acre-foot during each 24-hour period.

(d) ~~(e)~~ Without obtaining a permit, a person may construct or maintain a reservoir for the sole purpose of sediment control as part of a surface coal mining operation under the Texas Surface Coal Mining and Reclamation Act (Article 5920-11, Vernon's Texas Civil Statutes).

SECTION 2.10. Section 11.146, Water Code, is amended by adding Subsection (g) to read as follows:

(g) *This section does not apply to a permit for construction of a reservoir designed for the storage of more than 50,000 acre-feet of water.*

SECTION 2.11. Subsection (b), Section 11.147, Water Code, is amended to read as follows:

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit, to the extent practicable when considering all public interests *and the studies mandated by Section 16.058 as evaluated under Section 11.1491*, those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system.

SECTION 2.12. Subsection (b), Section 11.173, Water Code, is amended to read as follows:

(b) A permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certificate of adjudication is exempt from cancellation under Subsection (a) ~~[of this section]~~:

(1) to the extent of the owner's participation in the Conservation Reserve Program authorized by the Food Security Act, Pub.L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514 (1985) or a similar governmental program; ~~[or]~~

(2) *if a significant [any] portion of the water authorized to be used pursuant to a permit, certified filing, or certificate of adjudication has been used in accordance with a specific recommendation for meeting a water need included in the regional water plan approved pursuant to Section 16.053;*

(3) *if the permit, certified filing, or certificate of adjudication:*

(A) *was obtained to meet demonstrated long-term public water supply or electric generation needs as evidenced by a water management plan developed by the holder; and*

(B) *is consistent with projections of future water needs contained in the state water plan; or*

(4) *if the permit, certified filing, or certificate of adjudication was obtained as the result of the construction of a reservoir funded, in whole or in part, by the holder of the permit, certified filing, or certificate of adjudication as part of the holder's long-term water planning [of this code].*

SECTION 2.13. Subsection (b), Section 11.177, Water Code, is amended to read as follows:

(b) In determining what constitutes reasonable diligence or a justified nonuse as used in Subsection (a)(2) ~~[of this section]~~, the commission shall give consideration to:

(1) whether sufficient water is available in the source of supply to meet all or part of the appropriation during the 10-year period of nonuse;

(2) whether the nonuse is justified by the holder's participation in the federal Conservation Reserve Program or a similar governmental program as provided by Section 11.173(b)(1) ~~[of this code]~~;



(3) ~~whether the permit, certified filing, or certificate of adjudication was obtained to meet demonstrated long-term public water supply or electric generation needs as evidenced by a water management plan developed by the holder and consistent with projections of future water needs contained in the state water plan;~~

~~[(4) whether the permit, certified filing, or certificate of adjudication was obtained as the result of the construction of a reservoir funded, in whole or in part, by the holder of the permit, certified filing, or certificate of adjudication as part of the holder's long-term water planning;~~

~~[(5)] whether the existing or proposed authorized purpose and place of use are consistent with an approved regional water plan as provided by Section 16.053 [of this code];~~

(4) ~~[(6)]~~ whether the permit, certified filing, or certificate of adjudication has been deposited into the Texas Water Bank as provided by Sections 15.7031 and 15.704 ~~[of this code]~~ or whether it can be shown that the water right or water available under the right is currently being made available for purchase through private marketing efforts; or

(5) ~~[(7)]~~ whether the permit, certified filing, or certificate of adjudication has been reserved to provide for instream flows or bay and estuary inflows.

SECTION 2.14. Subdivision (2), Section 15.701, Water Code, is amended to read as follows:

(2) "Depositor" means a person who deposits or has on deposit a water right in the water bank or trust.

SECTION 2.15. Section 16.012, Water Code, is amended by adding Subsections (l) and (m) to read as follows:

*(l) The executive administrator shall obtain or develop groundwater availability models for major and minor aquifers in coordination with groundwater conservation districts and regional water planning groups created under Section 16.053 that overlie the aquifers. Modeling of major aquifers shall be completed not later than October 1, 2004. On completing a groundwater availability model for an aquifer, the executive administrator shall provide the model to each groundwater conservation district and each regional water planning group created under Section 16.053 overlying that aquifer.*

*(m) The executive administrator may conduct surveys of entities using groundwater and surface water at intervals determined appropriate by the executive administrator to gather data to be used for long-term water supply planning. Recipients of the survey shall complete and return the survey to the executive administrator. A person who fails to timely complete and return the survey is not eligible for funding from the board for board programs and is ineligible to obtain permits, permit amendments, or permit renewals from the commission under Chapter 11. A person who fails to complete and return the survey commits an offense that is punishable as a Class C misdemeanor. Surveys obtained by the board from nongovernmental entities are excepted from the requirements of Section 552.021, Government Code, unless otherwise directed in writing by the person completing the survey. This subsection does not apply to survey information regarding windmills used for domestic and livestock use.*

SECTION 2.16. Subsections (a), (f), (g), and (h), Section 16.051, Water Code, are amended to read as follows:

(a) ~~Not [No]~~ later than January 5, 2002, and *before the end of each successive five-year period after that date [every five years thereafter],* the board shall *prepare, develop, formulate, and adopt* a comprehensive state water plan that incorporates the regional water plans approved under Section 16.053. The state water plan shall provide for the orderly development, management, and conservation of water resources and preparation for and response to drought conditions, in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; further economic development; and protect the agricultural and natural resources of the entire state.

(f) The legislature may designate a[=

~~[(1)]~~ river or stream segment of unique ecological value. *This designation solely means that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in a specific river or stream segment designated by the legislature under this subsection.*

~~(g) The legislature may designate a~~~~;~~~~or~~

~~[(2)]~~ site of unique value for the construction of a reservoir.

~~[(g)]~~ A state agency or political subdivision of the state may not obtain a fee title or an easement that would

~~[(1)] destroy the unique ecological value of a river or stream segment designated by the legislature under Subsection (f) of this section; or~~

~~[(2)] significantly prevent the construction of a reservoir on a site designated by the legislature under [Subsection (f) of] this subsection [section].~~

(h) The board, the commission, or the Parks and Wildlife Department or a political subdivision affected by an action taken in violation of Subsection (f) or (g) ~~[of this section]~~ may bring a cause of action to remedy or prevent the violation. A cause of action brought under this subsection must be filed in a district court in Travis County or in the county in which the action is proposed or occurring.

SECTION 2.17. Subsections (d) and (e), Section 16.053, Water Code, are amended to read as follows:

(d) The board shall provide guidelines for the consideration of existing regional planning efforts by regional water planning groups. The board shall provide guidelines for the format in which information shall be presented in the regional water plans. *The board by rule shall require a holder of a surface water permit, a certified filing, or a certificate of adjudication for surface water, a holder of a permit for the export of groundwater from a groundwater conservation district, a retail public water supplier, a wholesale water provider, an irrigation district, and any other person who is transporting groundwater or surface water 20 miles or more to report to the board information on certain water pipelines and other facilities that can be used for water conveyance.* Nothing in the initial planning effort shall prevent development of a management plan or project where local or regional needs require action prior to completion of the initial regional water plan under this section.

(e) Each regional water planning group shall submit to the board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the board under Section 16.051(d);

(2) provides information based on data provided or approved by the board in a format consistent with the guidelines provided by the board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area in accordance with the guidelines provided by the board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response; ~~[and]~~

(C) actions to be taken as part of the response; *and*

(D) *information on water pipelines and other facilities that can be used for water conveyance, including, but not limited to, currently used and abandoned oil, gas, and water pipelines, as provided by board rules and guidelines;*

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) certified groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; and

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder; ~~and~~

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

*(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and*

*(8) describes the impact of proposed water projects on water quality.*

SECTION 2.18. Subdivision (7), Subsection (h), Section 16.053, Water Code, is amended to read as follows:

(7) The board may approve a regional water plan only after it has determined that:

(A) all interregional conflicts involving that regional water planning area have been resolved;

*(B) the plan includes water conservation practices and drought management measures incorporating, at a minimum, the provisions of Sections 11.1271 and 11.1272; and*

*(C) the plan is consistent with long-term protection of the state's water resources, agricultural resources, and natural resources as embodied in the guidance principles adopted under Section 16.051(d).*

SECTION 2.19. Section 16.053, Water Code, is amended by amending Subsection (j) and adding Subsections (p) and (q) to read as follows:

(j) The board may provide financial assistance to political subdivisions under Subchapters E and F of this chapter, Subchapters C, D, E, F, ~~[and]~~ J, O, and P, Chapter 15, and Subchapters D, I, K, and L, Chapter 17, for water supply projects only if:

(1) the board determines that the needs to be addressed by the project will be addressed in a manner that is consistent with the state water plan; and

(2) beginning January 5, 2002, the board:

(A) has approved a regional water plan as provided by Subsection (i), and any required updates of the plan, for the region of the state that includes the area benefiting from the proposed project; and

(B) determines that the needs to be addressed by the project will be addressed in a manner that is consistent with that regional water plan.

*(p) If a groundwater conservation district files a petition with the board stating that a conflict requiring resolution may exist between the district's certified groundwater conservation district management plan developed under Section 36.1071 and the approved regional water plan, the board shall facilitate coordination between the district and the involved region to resolve the conflict. If conflict remains, the board shall resolve the conflict. If the board determines that resolution of conflict requires a revision of an approved regional water plan, the board shall suspend the approval of that plan and provide information to the regional water planning group. The regional water planning group shall prepare any revisions to its plan specified by the board and shall hold, after notice, at least one public hearing at some central location within the regional water planning area. The regional water planning group shall consider all public and board comments, prepare, revise, and adopt its plan, and submit the revised plan to the board for approval and inclusion in the state water plan. If the board determines that resolution of conflict requires a revision of the district's certified groundwater conservation district management plan, the board shall suspend the certification of that plan and provide information to the district. The groundwater district shall prepare any revisions to its plan specified by the board and shall hold, after notice, at least one public hearing at some central location within the district. The groundwater district shall consider all public and board comments, prepare, revise, and adopt its plan, and submit the revised plan to the board for certification. On the request of the involved region or groundwater conservation district, the board shall include discussion of the conflict and its resolution in the state water plan that the board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).*

*(q) Each regional planning group shall examine the financing needed to implement the water management strategies and projects identified in the group's most recent approved regional plan and, not later than June 1, 2002, shall report to the board regarding:*

- (1) how local governments, regional authorities, and other political subdivisions in the region propose to pay for water infrastructure projects identified in the plan; and*
- (2) what role the regional planning group proposes for the state in financing projects identified in the plan, giving particular attention to proposed increases in the level of state participation in funding for regional projects to meet needs beyond the reasonable financing capability of local governments, regional authorities, and other political subdivisions involved in building water infrastructure.*

SECTION 2.20. Subsections (a), (c), and (d), Section 16.054, Water Code, are amended to read as follows:

*(a) Notwithstanding the provisions of this subsection, groundwater districts are the state's preferred method of managing groundwater resources. It is the policy of the state that water resource management, water conservation, and drought planning should occur on an ongoing basis. The board, commission, and Parks and Wildlife Department shall make available where appropriate technical and financial assistance for such planning. In addition, the Department of Agriculture may provide input and assistance, as appropriate, for local water [such] planning.*

*(c) When preparing a plan to be submitted under this section, a person shall consider the implementation of a desalination program if practicable.*

*(d) The regional water planning group shall consider any plan submitted under this section when preparing the regional water plan under Section 16.053 of this code. A political subdivision, including a groundwater conservation district, in the regional water planning area may request a regional water planning group to consider specific changes to a regional water plan based on changed conditions or new information. The regional water planning group shall consider the request and shall amend its regional water plan if it determines that an amendment is warranted. If the entity requesting the change is dissatisfied with the decision of the regional planning group, the entity may request that the board review the decision and consider changing the state-approved regional plan.*

*(e) After January 5, 2002, when [(d) When] preparing individual water plans that address drought or the development, management, or conservation of water resources from the holders*

of existing permits, certified filings, or certificates of adjudication, the water suppliers, ~~[groundwater districts,]~~ special districts, irrigation districts, and other water users should ensure that the plan is not in conflict with the applicable approved regional water plan for their region.

SECTION 2.21. Subdivision (11), Section 35.002, Water Code, is amended to read as follows:

(11) "Management area" means an area designated and delineated by the *Texas Water Development Board* ~~[commission]~~ as an area suitable for management of groundwater resources.

SECTION 2.22. Section 35.004, Water Code, is amended to read as follows:

Sec. 35.004. DESIGNATION OF GROUNDWATER MANAGEMENT AREAS. (a) *The Texas Water Development Board, with assistance and cooperation from the commission, shall designate groundwater management areas covering all major and minor aquifers in the state. The initial designation of groundwater management areas shall be completed not later than September 1, 2003* ~~[On its own motion from time to time, or on receiving a petition, the commission may designate groundwater management areas]~~. Each groundwater management area shall be designated with the objective of providing the most suitable area for the management of the groundwater resources. To the extent feasible, the groundwater management area shall coincide with the boundaries of a groundwater reservoir or a subdivision of a groundwater reservoir. The *Texas Water Development Board* ~~[commission]~~ also may consider other factors, including the boundaries of political subdivisions.

(b) *The commission may designate a groundwater management area after September 1, 2001, for a petition filed and accepted by the commission according to its rules in effect before September 1, 2001. The commission shall act on the designation in accordance with this section* ~~[On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the configuration of a groundwater management area. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing]~~.

(c) The *Texas Water Development Board* ~~[commission]~~ may alter the boundaries of designated management areas as required by future conditions and as justified by factual data. An alteration of boundaries does not invalidate the previous creation of any district.

(d) The *Texas Water Development Board* ~~[commission]~~ shall designate groundwater management areas using the procedures applicable to rulemaking under ~~[the Administrative Procedure Act, Subchapter B,]~~ Chapter 2001, Government Code.

SECTION 2.23. Subsections (a) and (f), Section 35.007, Water Code, are amended to read as follows:

(a) The executive director and the executive administrator shall meet *periodically* ~~[at least once a year]~~ to identify, based on information gathered by the commission and the Texas Water Development Board, those areas of the state that are experiencing or that are expected to experience, within the immediately following 25-year period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies. *Not later than September 1, 2005, the commission, with assistance and cooperation from the Texas Water Development Board, shall complete the initial designation of priority groundwater management areas across all major and minor aquifers of the state for all areas that meet the criteria for that designation. The studies may be prioritized considering information from the regional planning process, information from the Texas Water Development Board groundwater management areas and from groundwater conservation districts, and any other information available. After the initial designation of priority groundwater management areas, the commission and the Texas Water Development Board shall annually review the need for additional designations as provided by this subsection.*

(f) The report shall include:

- (1) the recommended delineation of the boundaries of any proposed priority groundwater management area in the form of an order to be considered for adoption by the commission;
- (2) the reasons and supporting information for or against designating the area as a priority groundwater management area;
- (3) a recommendation regarding whether *one or more districts* [~~a district~~] should be created in the priority groundwater management area, [~~or~~] whether the priority groundwater management area should be added to an existing district, *or whether a combination of those actions should be taken*;
- (4) a recommendation as to actions that should be considered to conserve natural resources;
- (5) an evaluation of information or studies submitted to the executive director under Subsection (c); and
- (6) any other information that the executive director considers helpful to the commission.

SECTION 2.24. Section 35.008, Water Code, is amended to read as follows:

Sec. 35.008. PROCEDURES FOR DESIGNATION OF PRIORITY GROUNDWATER MANAGEMENT AREA; CONSIDERATION OF CREATION OF *NEW* DISTRICT OR ADDITION OF LAND IN PRIORITY GROUNDWATER MANAGEMENT AREA TO EXISTING DISTRICT; *COMMISSION ORDER*. (a) The commission shall designate priority groundwater management areas using the procedures provided by this chapter in lieu of those provided by Subchapter B, Chapter 200I, Government Code.

(b) The commission shall call an evidentiary hearing to consider:

- (1) the designation of a priority groundwater management area; *and*
- (2) whether *one or more districts* [~~a district~~] should be created over all or part of a priority groundwater management area, [~~or~~]  
[~~(3) whether~~] all or part of the land in the priority groundwater management area should be added to an existing district, *or a combination of those actions should be taken. Consideration of this issue shall include a determination of whether a district is feasible and practicable.*

(c) Evidentiary hearings shall be held at a location in one of the counties in which the priority groundwater management area is located, or proposed to be located, or in the nearest convenient location if adequate facilities are not available in those counties.

(d) At the hearing, the commission shall hear testimony and receive evidence from affected persons. *Affected persons shall include landowners, well owners, and other users of groundwater in the proposed priority groundwater management area.* The commission shall consider the executive director's report and supporting information and the testimony and evidence received at the hearing. If the commission considers further information necessary, the commission may request such information from any source.

(e) *Any evidentiary hearing shall be concluded not later than the 75th day after the date notice of the hearing is published.*

(f) *At the conclusion of the hearing and the commission's considerations, the commission shall issue an order stating its findings and conclusions, including whether a priority groundwater management area should be designated in the area and recommendations regarding district creation as set forth in Subsection (g).*

(g) *The commission's order designating a priority groundwater management area must recommend that the area be covered by a district in any of the following ways:*

- (1) *creation of one or more new districts;*
- (2) *addition of the land in the priority groundwater management area to one or more existing districts; or*
- (3) *a combination of actions under Subdivisions (1) and (2).*

*(h) In recommending the boundaries of a district or districts under Subsection (g), the commission shall give preference to boundaries that are coterminous with those of the priority groundwater management area, but may recommend district boundaries along existing political subdivision boundaries at the discretion of the commission to facilitate district creation and confirmation.*

*(i) The designation of a priority groundwater management area may not be appealed nor may it be challenged under Section 5.351 of this code or [the Administrative Procedure Act,] Section 2001.038, Government Code.*

SECTION 2.25. Subsections (a) and (b), Section 35.009, Water Code, are amended to read as follows:

(a) The commission shall have notice of the hearing published in at least one newspaper with general circulation in the county or counties in which the area proposed for designation as a priority groundwater management area ~~[or the area within a priority groundwater management area being considered for district creation or for addition to an existing district]~~ is located. Notice must be published not later than the 30th day before the date set for the *hearing* ~~[commission to consider the designation of the priority groundwater management area, the creation of a district in a priority groundwater management area, or the addition of land in a priority groundwater management area to an existing district].~~

(b) The notice must include:

(1) if applicable, a statement of the general purpose and effect of designating the proposed priority groundwater management area;

(2) if applicable, a statement of the general purpose and effect of creating a *new* district in the priority groundwater management area;

(3) if applicable, a statement of the general purpose and effect of adding all or part of the land in the priority groundwater management area to an existing district;

(4) a map generally outlining the boundaries of the area being considered for priority groundwater management area designation ~~[or the priority groundwater management area being considered for district creation or for addition to an existing district,]~~ or notice of the location at which a copy of the map may be examined or obtained;

(5) a statement that the executive director's report concerning the priority groundwater management area or proposed area is available at the commission's main office in Austin, Texas, and at regional offices of the commission for regions which include territory within the priority groundwater management area or proposed priority groundwater management area and that the report is available for inspection during regular business hours;

(6) a description or the name of the locations in the affected area at which the commission has provided copies of the executive director's report to be made available for public inspection;

(7) the name and address of each public library, each county clerk's office, and each district to which the commission has provided copies of the executive director's report; and

(8) the date, time, and place of the hearing.

SECTION 2.26. Section 35.012, Water Code, is amended to read as follows:

Sec. 35.012. *CREATION OF DISTRICT IN PRIORITY GROUNDWATER MANAGEMENT AREA [COMMISSIONER ORDER]*. (a) ~~[At the conclusion of its hearing and considerations, the commission shall issue an order stating its findings and conclusions.]~~

~~[(b) If the commission finds that the land and other property in the priority groundwater management area would benefit from the creation of one or more districts, that there is a public need for one or more districts, and that the creation of one or more districts would further the public welfare, the commission shall issue an order stating that the creation of one or more districts is needed.]~~

~~[(c)]~~ Following the issuance of a commission order under Section 35.008 designating a priority groundwater management area and recommending the creation of one or more

*districts, or the addition of land to an existing district [Subsection (b)], the landowners in the priority groundwater management area may:*

- (1) create one or more districts under Subchapter B, Chapter 36;
- (2) have the area annexed to a district that adjoins the area; or
- (3) create one or more districts through the legislative process.

*(b) Within two years, but no sooner than 120 days, from the date on which the commission issues an order under Section 35.008 designating a priority groundwater management area, for those areas that are not within a district, the commission shall:*

- (1) create one or more new districts under Section 36.0151;*
- (2) recommend that the areas, or a portion of the areas, be added to an existing district under Section 35.013; or*
- (3) take any combination of the actions under Subdivisions (1) and (2).*

*(c) Following the issuance of a commission order under Section 35.008 [The commission shall identify the areas subject to the order of the commission issued under Subsection (b) that have not been incorporated into a district and shall delineate proposed boundaries of a district to include those areas. If the commission proposes the creation of one or more districts], the Texas Agricultural Extension Service shall begin an educational program within such areas with the assistance and cooperation of the Texas Water Development Board, the commission, the Department of Agriculture, other state agencies, and existing districts to inform the residents of the status of the area's water resources and management options including possible formation of a district, before beginning the procedures for creation of a district provided in Subchapter B, Chapter 36]. The county commissioners court of each county in the priority groundwater management area shall form a steering committee to provide assistance to the Texas Agricultural Extension Service in accomplishing the goals of the education program within the area.*

*[(e) If the commission fails to find that the district would be a benefit to the land and other property within the priority groundwater management area, that there is a public need for the district, or that creation of the district will further the public welfare, the commission shall issue an order stating that a district should not be created within the boundaries of the priority groundwater management area.*

*[(f) An order of the commission issued under this section may not be appealed.]*

SECTION 2.27. Section 35.013, Water Code, is amended to read as follows:

Sec. 35.013. ADDING PRIORITY GROUNDWATER MANAGEMENT AREA TO EXISTING DISTRICT.

*(a) [If land in a priority groundwater management area is located adjacent to one or more existing districts, the commission, instead of issuing an order under Section 35.012, may issue an order recommending that the priority groundwater management area be added to the existing district designated by the commission. In its order, the commission must find that the land and other property in the priority groundwater management area and the land in the existing district will benefit from the addition of the area, that there is a public need to add the priority groundwater management area to the existing district, and that the addition of the land to the existing district would further the public welfare.*

*[(b)] If the commission in its order under Section 35.008 [executive director] recommends that the priority groundwater management area or a portion of the priority groundwater management area be added to an existing district [or if the commission considers it possible to add the priority groundwater management area to an adjacent existing district], the commission shall give notice to the board of the existing district recommended in its order [by the executive director or considered by the commission to possibly serve the area] and to any other existing districts adjacent to the priority groundwater management area.*

*(b) [(e)] The commission shall submit a copy of the order to the board of the district to which it is recommending the priority groundwater management area be added. The board shall vote*



on the addition of the priority groundwater management area to the district and shall advise the commission of the outcome.

(c) ~~[(d)]~~ If the board votes to accept the addition of the priority groundwater management area to the district, the board:

(1) may request the Texas Agricultural Extension Service, the commission, and the Texas Water Development Board, with the cooperation and assistance of the Department of Agriculture and other state agencies, to administer an educational program to inform the residents of the status of the area's water resources and management options including possible annexation into a district;

(2) shall call an election within the priority groundwater management area, *or portion of the priority groundwater management area*, as delineated by the commission to determine if the priority groundwater management area will be added to the district; and

(3) shall designate election precincts and polling places for the elections in the order calling an election under this subsection.

(d) ~~[(e)]~~ The board shall give notice of the election and the proposition to be voted on. The board shall publish notice of the election at least one time in one or more newspapers with general circulation within the boundaries of the priority groundwater management area. The notice must be published before the 30th day preceding the date set for the election.

(e) ~~[(f)]~~ The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of \_\_\_\_\_ (briefly describe priority groundwater management area) in the \_\_\_\_\_ District." If the district has outstanding debts or taxes, the proposition shall include the following language: "and assumption by the described area of a proportional share of the debts or taxes of the district."

(f) ~~[(g)]~~ Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election within the priority groundwater management area and declare the results. If a majority of the voters in the priority groundwater management area voting on the proposition vote in favor of the proposition, the board shall declare that the priority groundwater management area is added to the district. If a majority of the voters in the priority groundwater management area voting on the proposition vote against adding the priority groundwater management area to the district, the board shall declare that the priority groundwater management area is not added to the district. The board shall file a copy of the election results with the commission.

(g) ~~[(h)]~~ If the voters approve adding the priority groundwater management area to the district, the board of the district to which the priority groundwater management area is added shall provide reasonable representation on that board compatible with the district's existing scheme of representation. *Not later than the 30th day after the date on which the board declares that the priority groundwater management area is added to the district, the board of the existing district shall appoint a person or persons to represent the area until the next regularly scheduled election or appointment of directors.*

(h) ~~[(i)]~~ If the proposition is defeated, *or if the board of the existing district votes not to accept the addition of the area to the district, then the commission shall, except as provided under Subsection (i), create under Section 36.0151 one or more districts covering the priority groundwater management area not later than the first anniversary of the date on which the proposition is defeated or the board votes not to accept the area.*

(i) *For an area that is not feasible for the creation of one or more districts as determined in the commission's findings under Section 35.008, the commission shall include in its report under Section 35.018 recommendations for the future management of the priority groundwater management area.*

(j) *Another ~~[another]~~ election to add the priority groundwater management area to an existing district may not be called before the first anniversary of the date on which the election on the proposition was held.*

SECTION 2.28. Subsection (c), Section 35.018, Water Code, is amended to read as follows:

(c) *If the commission determines that a district created under Chapter 36 is not appropriate for, or capable of, the protection of the groundwater resources for a particular management area or priority groundwater management area, the commission may recommend in its report to the legislature the creation of a special district or amendment of an existing district. ~~[(1) If voters fail to create a groundwater district in a priority groundwater management area or if voters fail to add the priority groundwater management area to an existing groundwater district, the report shall include recommendations for the future management of the priority groundwater management area. The recommendations may include but are not limited to the following:~~*

- ~~[(A) creation of a groundwater district by the legislature;~~
- ~~[(B) annexation of a priority groundwater management area into an existing district by the legislature; or~~
- ~~[(C) management of the priority groundwater management area by the nearest regional office of the commission. The commission may be authorized to:~~
  - ~~[(i) adopt spacing and annual per acre pumping restrictions;~~
  - ~~[(ii) issue well permits in accordance with Sections 36.113 and 36.1131;~~
  - ~~[(iii) prevent waste and protect the quality of groundwater in accordance with Sections 36.001(8)(A)-(G);~~
  - ~~[(iv) levy administrative penalties for violations; and~~
  - ~~[(v) collect fees in accordance with Sections 36.206(a) and (b).]~~

~~[(2) If the commission is required by the legislature to manage the priority groundwater management area, a new election may not be called for three years from the date of the last election.]~~

SECTION 2.29. Section 36.001, Water Code, is amended by amending Subdivision (13) and adding Subdivisions (18) through (22) to read as follows:

(13) "Management area" means an area designated and delineated by the *Texas Water Development Board* ~~[commission]~~ under Chapter 35 as an area suitable for management of groundwater resources.

(18) "*River basin*" means a river or coastal basin designated as a river basin by the board under Section 16.051. The term does not include waters of the bays or arms originating in the Gulf of Mexico.

(19) "*Agriculture*" means any of the following activities:

- (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;
- (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- (E) wildlife management; and
- (F) raising or keeping equine animals.

(20) "*Agricultural use*" means any use or activity involving agriculture, including irrigation.

(21) "*Conjunctive use*" means the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.

(22) "*Nursery grower*" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically

*includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.*

SECTION 2.30. Section 36.0015, Water Code, is amended to read as follows:

Sec. 36.0015. PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management *through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter.*

SECTION 2.31. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, *except as those rights may be limited or altered by [subject to] rules promulgated by a district.*

SECTION 2.32. Subsection (b), Section 36.011, Water Code, is amended to read as follows:

(b) The commission has exclusive jurisdiction over the ~~[delineation of management areas and the]~~ creation of districts.

SECTION 2.33. Section 36.012, Water Code, is amended by adding Subsection (f) to read as follows:

*(f) This section does not apply to districts created under Section 36.0151.*

SECTION 2.34. Section 36.013, Water Code, is amended to read as follows:

Sec. 36.013. PETITION TO CREATE DISTRICT. (a) A petition requesting creation of a district must be filed with the *commission [executive director]* for review and *certification under Section 36.015 [submission to the commission].*

(b) The petition filed pursuant to this section must be signed by:

(1) a majority of the landowners within the proposed district, as indicated by the county tax rolls; or

(2) if there are more than 50 landowners in the proposed district, at least 50 of those landowners.

(c) The petition must include:

(1) the name of the proposed district;

(2) the area and boundaries of the proposed district, including a map generally outlining the boundaries of the proposed district;

(3) the purpose or purposes of the district;

(4) a statement of the general nature of any projects proposed to be undertaken by the district, the necessity and feasibility of the work, and the estimated costs of those projects according to the persons filing the projects if the projects are to be funded by the sale of bonds or notes; ~~[and]~~

*(5) the names of at least five individuals qualified to serve as temporary directors; and*

*(6) financial information, including the projected maintenance tax or production fee rate and a proposed budget of revenues and expenses for the district [any additional terms or conditions that restrict the powers of the district from those provided in this chapter].*

~~[(d) If a part of the proposed district is not included within either a management area or a priority groundwater management area, the petition to create a district may also contain a request to create a management area. A request to create a management area must comply with~~

~~the requirements for a petition in Section 35.005, and may be acted on by the commission separately from the petition to create the district.]~~

SECTION 2.35. Section 36.014, Water Code, is amended to read as follows:

Sec. 36.014. NOTICE AND PUBLIC MEETING ~~[HEARING]~~ ON DISTRICT CREATION. (a) If a petition is filed under Section 36.013, the commission shall give notice of ~~the [an]~~ application ~~[as required by Section 49.011(a)]~~ and shall ~~[may]~~ conduct a public meeting in a central location within the area of the proposed district ~~[hearing]~~ on the application not later than the 60th day after the date the commission issues notice ~~[if the commission determines that a hearing is necessary under Section 49.011]~~. The notice must contain the date, time, and location of the public meeting and must be published in one or more newspapers of general circulation in the area of the proposed district.

(b) If the petition contains a request to create a management area in all or part of the proposed district, the notice must also be given in accordance with the requirements in Section 35.006 for the designation of management areas.

SECTION 2.36. Section 36.015, Water Code, is amended to read as follows:

Sec. 36.015. COMMISSION CERTIFICATION AND ORDER. (a) Not later than the 90th day after the date the commission holds a public meeting on a petition under Section 36.014, the commission shall certify the petition if the petition is administratively complete. A petition is administratively complete if it complies with the requirements of Sections 36.013(b) and (c).

(b) The commission may not certify a petition if the commission finds that the proposed district cannot be adequately funded to carry out its purposes based on the financial information provided in the petition under Section 36.013(c)(6) or that the boundaries of the proposed district do not provide for the effective management of the groundwater resources. The commission shall give preference to boundary lines that are coterminous with those of a groundwater management area but may also consider boundaries along existing political subdivision boundaries if such boundaries would facilitate district creation and confirmation.

(c) If a petition proposes the creation of a district in an area, in whole or in part, that has not been designated as a management area, the commission shall provide notice to the Texas Water Development Board. On the receipt of notice from the commission, the Texas Water Development Board shall initiate the process of designating a management area for the area of the proposed district not included in a management area. The commission may not certify the petition until the Texas Water Development Board has adopted a rule whereby the boundaries of the proposed district are coterminous with or inside the boundaries of a management area.

(d) If the commission does not certify the petition, the commission shall provide to the petitioners, in writing, the reasons for not certifying the petition. The petitioners may resubmit the petition, without paying an additional fee, if the petition is resubmitted within 90 days after the date the commission sends the notice required by this subsection.

(e) If the commission certifies the petition as administratively complete, the commission shall issue an order, notify the petitioners, and appoint temporary directors as provided by Section 36.016.

(f) Refusal by the commission to certify a petition to create a district does not invalidate or affect the designation of any management area. ~~[FINDINGS. (a) If the commission finds that a district is feasible and practicable, that it would be a benefit to the land in the district, and that it would be a public benefit or utility, the commission shall issue an order containing these findings granting the petition.]~~

~~[(b) If the commission finds that a district is not feasible and practicable, that it would not be a benefit to the land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission by order shall deny the petition.]~~

~~[(c) The commission may adjust the boundaries of the proposed district to exclude any land that would not be benefited by inclusion in the district and is not necessary to the district for proper regulation of the groundwater reservoir.]~~

~~[(d) If the commission grants the petition to create the district, it shall direct in its order creating the district that an election be called by the temporary directors to confirm the creation of the district and to elect permanent directors.]~~

~~[(e) The refusal to grant a petition to create a district does not invalidate or affect the designation of any management area requested in the same petition.]~~

~~[(f) The commission shall act on the petition within a reasonable amount of time.]~~

SECTION 2.37. Subsection (a), Section 36.0151, Water Code, is amended to read as follows:

(a) If the commission *is required to create* ~~[proposes that]~~ a district ~~[be created]~~ under Section 35.012(b) ~~[35.012(d)]~~, it shall, *without an evidentiary hearing, issue an order creating the district and shall provide* in its order ~~[creating the district provide]~~ that temporary directors be appointed under Section 36.016 and that an election be called by the temporary directors to *authorize the district to assess taxes* ~~[confirm the creation of the district]~~ and to elect permanent directors.

SECTION 2.38. Subsection (a), Section 36.016, Water Code, is amended to read as follows:

(a) If the commission *certifies* ~~[grants]~~ a petition to create a district under Section 36.015, *the commission shall appoint the temporary directors named in the petition. If* ~~[or after]~~ the commission dissolves a district's board under Section 36.303, it shall appoint five temporary directors.

SECTION 2.39. Section 36.017, Water Code, is amended by amending the section heading and Subsections (a), (d), and (g) and adding Subsection (i) to read as follows:

Sec. 36.017. CONFIRMATION AND DIRECTORS' ELECTION FOR DISTRICT IN A MANAGEMENT AREA. (a) *For a district created under Section 36.015, not* ~~[Not]~~ later than the 120th ~~[60th]~~ day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the \_\_\_\_\_ Groundwater Conservation District." If the district levies a maintenance tax for payment of its expenses, *then an additional* ~~[the]~~ proposition shall *be included with* ~~[include]~~ the following language: "The ~~[and the]~~ levy of a maintenance tax at a rate not to exceed \_\_\_\_\_ cents for each \$100 of assessed valuation." *The same ballot or another ballot must provide for the election of permanent directors, in accordance with Section 36.059.*

(g) If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the result in its minutes. *The temporary board shall continue operations in accordance with Subsection (h).*

(i) *If a majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set production fees to pay for the district's regulation of groundwater in the district, including fees based on the amount of water to be withdrawn from a well.*

SECTION 2.40. Subchapter B, Chapter 36, Water Code, is amended by adding Section 36.0171 to read as follows:

Sec. 36.0171. TAX AUTHORITY AND DIRECTORS' ELECTION FOR DISTRICT IN A PRIORITY GROUNDWATER MANAGEMENT AREA. (a) *For a district created under Section 36.0151, not later than the 120th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to authorize the district to assess taxes and to elect permanent directors.*

(b) *In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.*

(c) *The temporary directors shall publish notice of the election at least once in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.*

(d) *The ballot for the election must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax by the \_\_\_\_\_ Groundwater Conservation District at a rate not to exceed \_\_\_\_\_ cents for each \$100 of assessed valuation." The same ballot or another ballot must provide for the election of permanent directors, in accordance with Section 36.059.*

(e) *Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns, declare the result, and turn over the operations of the district to the elected permanent directors. The board shall file a copy of the election result with the commission.*

(f) *If a majority of the votes cast at the election favor the levy of a maintenance tax, the temporary board shall declare the levy approved and shall enter the result in its minutes.*

(g) *If a majority of the votes cast at the election are against the levy of a maintenance tax, the temporary board shall declare the levy defeated and shall enter the result in its minutes.*

(h) *If the majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set permit fees to pay for the district's regulation of groundwater in the district, including fees based on the amount of water to be withdrawn from a well.*

SECTION 2.41. Section 36.019, Water Code, is amended to read as follows:

Sec. 36.019. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY. (a) A district, the major portion of which is located in one county, may not be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is approved by a majority of the voters of the other county voting in an election called for that purpose.

(b) *This section does not apply to districts created under Section 36.0151.*

SECTION 2.42. Subsection (a), Section 36.060, Water Code, is amended to read as follows:

(a) A director is entitled to receive fees of office of not more than \$150 [~~\$100~~] a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed \$9,000 [~~\$6,000~~] a year.

SECTION 2.43. Subsection (g), Section 36.066, Water Code, is amended to read as follows:

(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, *the district may seek and the court shall grant [it may], in the same action, recovery [recover reasonable fees] for attorney's fees [attorneys], costs for expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.*

SECTION 2.44. Subsection (a), Section 36.101, Water Code, is amended to read as follows:

(a) A district may make and enforce rules, *including rules limiting groundwater production based on tract size or the spacing of wells*, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, *prevent degradation of water quality*, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter. *During the rulemaking process the board shall consider all groundwater uses and needs and shall develop rules which are fair and impartial.*

SECTION 2.45. Subsection (b), Section 36.102, Water Code, is amended to read as follows:

(b) The board *by rule* may set reasonable civil penalties for breach of any rule of the district [~~that shall~~] not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation [~~the jurisdiction of a justice court as provided by Section 27.031, Government Code~~].

SECTION 2.46. Section 36.1071, Water Code, is amended by amending Subsections (a) and (b) and adding Subsection (h) to read as follows:

(a) Following notice and hearing, the district shall, in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following management goals, as applicable:

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues; ~~[and]~~
- (5) addressing natural resource issues;
- (6) *addressing drought conditions; and*
- (7) *addressing conservation.*

(b) *After January 5, 2002, a [A] district management plan, or any amendments to a district management plan, shall be developed by the district using the district's best available data and forwarded to the regional water planning group for consideration in their planning process [adopted after the Texas Water Development Board approval of a regional water plan for the region in which the district is located shall be consistent with the regional water plan].*

(h) *In developing its management plan, the district shall use the groundwater availability modeling information provided by the executive administrator in conjunction with any available site-specific information provided by the district and acceptable to the executive administrator.*

SECTION 2.47. Section 36.1072, Water Code, is amended by adding Subsection (g) to read as follows:

(g) *In this subsection, "board" means the Texas Water Development Board. A person with a legally defined interest in groundwater in a district or the regional water planning group may file a petition with the board stating that a conflict requiring resolution may exist between the district's certified groundwater conservation district management plan developed under Section 36.1071 and the state water plan. If a conflict exists, the board shall facilitate coordination between the involved person or regional water planning group and the district to resolve the conflict. If conflict remains, the board shall resolve the conflict. The board action under this provision may be consolidated, at the option of the board, with related action under Section 16.053(p). If the board determines that resolution of the conflict requires a revision of the certified groundwater conservation district management plan, the board shall suspend the certification of the plan and provide information to the district. The district shall prepare any revisions to the plan specified by the board and shall hold, after notice, at least one public hearing at some central location within the district. The district shall consider all public and board comments, prepare, revise, and adopt its plan, and submit the revised plan to the board for certification. On the request of the district or the regional water planning group, the board shall include discussion of the conflict and its resolution in the state water plan that the board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).*

SECTION 2.48. Section 36.108, Water Code, is amended to read as follows:

Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.1071 covering that district's respective territory. On completion *and certification of the plan as required by Section 36.1072*, each district shall forward a copy of the new or revised management plan to the other districts in the management area. *The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area.*

(b) The board of directors of each district in the management area may, by resolution, call for [a] joint planning ~~[meeting]~~ with ~~[the boards of directors of]~~ the other districts in the

management area to review the management plans and accomplishments for the management area. ~~[The boards shall meet to consider the plans individually and shall compare them to other management plans then in force in the management area.]~~ In reviewing the management plans, the boards shall consider:

(1) the goals of each management plan and its impact on planning throughout the management area;

(2) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(c) *If a [A] joint meeting of the boards of directors is called, the meeting must be held in accordance with [the Open Meetings Act,] Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.*

(d) A district in the management area may file *with good cause* a petition with the commission requesting an inquiry if the petitioner district *adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence [believes]* that:

(1) another district in the management area has failed to adopt rules;

(2) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(3) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(e) Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss it if it finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection (f).

(f) *If the petition is not dismissed under Subsection (e), the [The] commission shall [may] appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.*

(g) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, *consider and adopt [prepare]* a report to *be submitted to* the commission. The commission may direct the review panel to conduct public hearings at a location in the management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

(h) In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearing on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and

(3) any other information the panel considers appropriate.

(i) *The review panel shall submit its report to the commission.*



*(j) Districts located within the same management areas or in adjacent management areas may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.*

SECTION 2.49. Section 36.113, Water Code, is amended by amending Subsection (d), adding a new Subsection (e), and relettering existing Subsections (e) and (f) as Subsections (f) and (g) to read as follows:

(d) Before granting or denying a permit, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources *or existing permit holders*;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

(e) *The district may impose more restrictive permit conditions on new permit applications and increased use by historic users if the limitations:*

*(1) apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use;*

*(2) bear a reasonable relationship to the existing district management plan; and*

*(3) are reasonably necessary to protect existing use.*

(f) Permits may be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

(g) ~~(f)~~ A district may require that changes in the withdrawal and use of groundwater under a permit not be made without the prior approval of a permit amendment issued by the district.

SECTION 2.50. Section 36.116, Water Code, is amended to read as follows:

Sec. 36.116. REGULATION OF SPACING AND PRODUCTION. *(a) In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, a district by rule may regulate:*

*(1) [provide for] the spacing of water wells by:*

*(A) requiring all water wells to be spaced a certain distance from property lines or adjoining wells;*

*(B) requiring wells with a certain production capacity, pump size, or other characteristic related to the construction or operation of and production from a well to be spaced a certain distance from property lines or adjoining wells; or*

*(C) imposing spacing requirements adopted by the board; and*

(2) the production of groundwater by:

- (A) setting production limits on wells;
- (B) limiting the amount of water produced based on acreage or tract size;
- (C) limiting the amount of water that may be produced from a defined number of acres assigned to an authorized well site;
- (D) limiting the maximum amount of water that may be produced on the basis of acre-feet per acre or gallons per minute per well site per acre; or
- (E) any combination of the above ~~[and may regulate the production of wells]~~.

(b) In promulgating any rules limiting groundwater production, the district may preserve historic use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071.

(c) In regulating the production of groundwater based on tract size or acreage, a district may consider the service needs of a retail water utility. For purposes of this subsection, "retail water utility" shall have the meaning provided at Section 13.002.

SECTION 2.51. Section 36.117, Water Code, is amended to read as follows:

Sec. 36.117. EXEMPTIONS; EXCEPTION; LIMITATIONS. (a) A district may exempt wells from the requirement of obtaining ~~[requirements to obtain]~~ a drilling permit, an operating permit, or any other permit required by this chapter or the district's rules.

(b) A district may not require any ~~[a]~~ permit issued by the district for:

(1) ~~[drilling or producing from]~~ a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or ~~[alteration of the size of a well or to restrict the production of a well if the water produced or to be produced from the well is used or to be used to supply the domestic needs of 10 or fewer households and a person who is a member of each household is either the owner of the well, a person related to the owner or a member of the owner's household within the second degree by consanguinity, or an employee of the owner;]~~

(3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water. ~~[or alteration of the size of a well or to restrict the production from the well if the water produced or to be produced from the well is used or to be used to provide water for feeding livestock and poultry connected with farming, ranching, or dairy enterprises; or]~~

~~[(4) water wells to supply water for hydrocarbon production activities, regardless of whether those wells are producing, that are associated with any well permitted by the Railroad Commission of Texas drilled before September 1, 1985.]~~

~~[(b) The board shall adopt rules determining the applicability of Subsection (a)(3) to facilities used primarily for feeding livestock.]~~

(c) ~~[The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.]~~

~~[(d)]~~ A district may not restrict the production of any well that is exempt from permitting under Subsection (b)(1) ~~[equipped to produce 25,000 gallons or less a day]~~.

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

(1) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(2) the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(e) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

(1) the total amount of water withdrawn during the month;

(2) the quantity of water necessary for mining activities; and

(3) the quantity of water withdrawn for other purposes. ~~[Nothing in this chapter applies to wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluid, or for any other purpose, under permits issued by the Railroad Commission of Texas. A district may not require a drilling permit for a well to supply water for drilling any wells permitted by the Railroad Commission of Texas. Any well that ceases to be used for these purposes and is then used as an ordinary water well is subject to the rules of the district. Water wells drilled after September 1, 1997, to supply water for hydrocarbon production activities must meet the spacing requirements of the district unless no space is available within 300 feet of the production well or the central injection station.]~~

(f) Notwithstanding Subsection (d), a district may not require a well exempted under Subsection (b)(3) to comply with the spacing requirements of the district. ~~[Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.]~~

(g) A district may not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets all applicable rules as promulgated by the district.

(h) A ~~[shall require]~~ water well ~~[wells]~~ exempted under Subsection (a) or (b) shall:

(1) ~~[this section to]~~ be registered in accordance with rules promulgated by the district; and

(2) ~~[before drilling. All exempt water wells shall]~~ be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(i) The driller of a well exempted under Subsection (a) or (b) shall file the drilling log with the district.

(j) ~~[(h)]~~ A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, ~~[law]~~ is not exempted under Subsection (b) ~~[this section]~~.

(k) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district is subject to any applicable production and export fees under Sections 36.122 and 36.205.

(l) This chapter applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This chapter does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine,

*or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.*

SECTION 2.52. Section 36.122, Water Code, is amended to read as follows:

Sec. 36.122. TRANSFER OF GROUNDWATER OUT OF DISTRICT. (a) *If an application for a permit or an amendment to a permit under Section 36.113 proposes the transfer of groundwater outside of a district's boundaries, the district may also consider the provisions of this section in determining whether to grant or deny the permit or permit amendment.*

(b) A district may promulgate rules requiring a person to obtain a permit or an amendment to a permit under Section 36.113 from the district for the transfer of groundwater out of the district to:

(1) increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or

(2) transfer groundwater out of the district on or after March 2, 1997, under a new arrangement.

(c) *Except as provided in Section 36.113(e), the district may not impose more restrictive permit conditions on transporters than the district imposes on existing in-district users.*

(d) ~~[(b)]~~ The district may impose a reasonable fee for processing an application ~~[for a permit]~~ under this section. *The fee may not exceed fees that the district imposes for processing other applications under Section 36.113. An application filed to comply with this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant.*

(e) *The district may impose a reasonable fee or surcharge for an export fee using one of the following methods:*

(1) *a fee negotiated between the district and the transporter;*

(2) *a rate not to exceed the equivalent of the district's tax rate per hundred dollars of valuation for each thousand gallons of water transferred out of the district or 2.5 cents per thousand gallons of water, if the district assesses a tax rate of less than 2.5 cents per hundred dollars of valuation; or*

(3) *for a fee-based district, a 50 percent export surcharge, in addition to the district's production fee, for water transferred out of the district.*

~~(f) [(e) Before issuing a permit under this section, the district must give notice of the application and hold a public hearing.~~

~~[(d)]~~ In reviewing a proposed transfer of groundwater out of the district ~~[determining whether to issue a permit under this section]~~, the district shall consider:

(1) the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;

(2) ~~[the availability of feasible and practicable alternative supplies to the applicant;~~

~~[(3) the amount and purposes of use in the proposed receiving area for which water is needed;~~

~~[(4)]~~ the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and

(3) ~~[(5)]~~ the approved regional water plan and certified district management plan.

(g) ~~[(e)]~~ The district may not deny a permit based on the fact that the applicant seeks to transfer groundwater outside of the district but may limit a permit issued under this section if conditions in Subsection (f) ~~[(d)]~~ warrant the limitation, *subject to Subsection (c).*

(h) ~~[(f)]~~ In addition to conditions provided by Section 36.113I, the permit shall specify:

(1) the amount of water that may be transferred out of the district; and

(2) the period for which the water may be transferred.

(i) *The period specified by Subsection (h)(2) shall be:*

(1) *at least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or*

(2) *at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.*

(j) *A term under Subsection (i)(1) shall automatically be extended to the terms agreed to under Subsection (i)(2) if construction of a conveyance system is begun before the expiration of the initial term.*

(k) *Notwithstanding the period specified in Subsections (i) and (j) during which water may be transferred under a permit, a district may periodically review the amount of water that may be transferred under the permit and may limit the amount if additional factors considered in Subsection (f) warrant the limitation, subject to Subsection (c). The review described by this subsection may take place not more frequently than the period provided for the review or renewal of regular permits issued by the district. In its determination of whether to renew a permit issued under this section, the district shall consider relevant and current data for the conservation of groundwater resources and shall consider the permit in the same manner it would consider any other permit in the district.*

(l) *A district is prohibited from using revenues obtained under Subsection (e) to prohibit the transfer of groundwater outside of a district. A district is not prohibited from using revenues obtained under Subsection (e) for paying expenses related to enforcement of this chapter or district rules.*

(m) ~~[(g)]~~ *A district may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997.*

(n) ~~[(h)]~~ *This section applies only to a transfer of water that is permitted ~~[initiated or increased]~~ after September 1, 1997 ~~[the effective date of this section]~~.*

(o) ~~[(i)]~~ *A district shall adopt rules as necessary to implement this section but may not adopt rules expressly prohibiting the export of groundwater.*

(p) *Subsection (e) does not apply to a district that is collecting an export fee or surcharge on March 1, 2001.*

(q) *In applying this section, a district must be fair, impartial, and nondiscriminatory.*

SECTION 2.53. Section 36.205, Water Code, is amended to read as follows:

Sec. 36.205. **AUTHORITY TO SET FEES.** (a) A district may set fees for administrative acts of the district, such as filing applications. Fees set by a district may not unreasonably exceed the cost to the district of performing the administrative function for which the fee is charged.

(b) A district shall set and collect fees for all services provided outside the boundaries of the district. *The fees may not unreasonably exceed the cost to the district of providing the services outside the district.*

(c) *A district may assess production fees based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn. A district may assess the fees in lieu of, or in conjunction with, any taxes otherwise levied by the district. A district may use revenues generated by the fees for any lawful purpose. Production fees ~~[Fees based on the amount of water to be withdrawn from a well]~~ shall not exceed:*

(1) *\$1 ~~[one dollar]~~ per acre-foot payable annually ~~[acre-foot]~~ for water used for agricultural use ~~[the purpose of irrigating agricultural crops]; or~~*

(2) *\$10 per acre-foot payable annually ~~[17 cents per thousand gallons]~~ for water used for any other purpose.*

(d) *The Barton Springs-Edwards Aquifer Conservation District, the Lone Star Groundwater Conservation District, and the Guadalupe County Groundwater Conservation District may not charge production fees for an annual period greater than \$1 per acre-foot for water used for agricultural use or 17 cents per thousand gallons for water used for any other purpose. The Barton Springs-Edwards Aquifer Conservation District ~~[A district affected by Subsection (c)(2)]~~*

~~that also~~ may assess a water use fee against a specific municipality ~~in [shall assess]~~ an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district. This subsection shall take precedence over all prior enactments.

(e) Subsection (c) does not apply to the following districts:

- (1) the Edwards Aquifer Authority;
- (2) the Fort Bend Subsidence District; ~~[or]~~
- (3) the Harris-Galveston Coastal Subsidence District;
- (4) *the Barton Springs-Edwards Aquifer Conservation District; or*
- (5) *any district that collects a property tax and that was created before September 1, 1999, unless otherwise authorized by special law.*

(f) *A district, including a district described under Subsection (d), may assess a production fee under Subsection (c) for any water produced under an exemption under Section 36.117 if that water is subsequently sold to another person.*

(g) *A district may assess a transportation fee under Section 36.122.*

SECTION 2.54. Section 36.206, Water Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The rate of fees set for ~~[crop or livestock production or other]~~ agricultural uses shall be no more than 20 percent of the rate applied to municipal uses.

(c) *District fees may not be used to purchase groundwater rights unless the purchased rights are acquired for conservation purposes and are permanently held in trust not to be produced.*

SECTION 2.55. Subchapter I, Chapter 36, Water Code, is amended by adding Section 36.3011 to read as follows:

*Sec. 36.3011. FAILURE OF A DISTRICT TO CONDUCT JOINT PLANNING. (a) If the board of a district within a common management area fails to forward a copy of its new or revised certified management plan under Section 36.108, the commission shall take appropriate action under Section 36.303.*

*(b) Not later than the 45th day after receiving the review panel's report under Section 36.108, the executive director or the commission shall take action to implement any or all of the panel's recommendations. If the commission finds that a district in the joint planning area has failed to adopt rules, the groundwater in the management area is not adequately protected by the rules adopted by the district, or the groundwater in the management area is not adequately protected because of the district's failure to enforce substantial compliance with its rules, the commission may take any action it considers necessary in accordance with Section 36.303.*

SECTION 2.56. Subsection (a), Section 36.303, Water Code, is amended to read as follows:

(a) If Section 36.108, 36.301, or 36.302(f) applies, the commission, after notice and hearing in accordance with Chapter 2001, Government Code, shall take action the commission considers appropriate, including:

- (1) issuing an order requiring the district to take certain actions or to refrain from taking certain actions;
- (2) dissolving the board in accordance with Sections 36.305 and 36.307 *and calling an election for the purpose of electing a new board;*
- (3) *requesting the attorney general to bring suit for the appointment of a receiver to collect the assets and carry on the business of the groundwater conservation district [removing the district's taxing authority]; or*
- (4) dissolving the district in accordance with Sections 36.304, 36.305, and 36.308.

SECTION 2.57. Subchapter I, Chapter 36, Water Code, is amended by adding Section 36.3035 to read as follows:

*Sec. 36.3035. APPOINTMENT OF A RECEIVER. (a) If the attorney general brings a suit for the appointment of a receiver for a district, a district court shall appoint a receiver if an appointment is necessary to protect the assets of the district.*

*(b) The receiver shall execute a bond in an amount to be set by the court to ensure the proper performance of the receiver's duties.*

*(c) After appointment and execution of bond, the receiver shall take possession of the assets of the district specified by the court.*

*(d) Until discharged by the court, the receiver shall perform the duties that the court directs to preserve the assets and carry on the business of the district and shall strictly observe the final order involved.*

*(e) On a showing of good cause by the district, the court may dissolve the receivership and order the assets and control of the business returned to the district.*

SECTION 2.58. Section 51.149, Water Code, is amended to read as follows:

*Sec. 51.149. CONTRACTS. (a) No approvals other than those specified in Subsection (c) and in Section 1, Chapter 778, Acts of the 74th Legislature, Regular Session, 1995, need be obtained in order for a contract between a district and a municipality to be valid, binding, and enforceable against all parties to the contract. After approval by a majority of the electors voting at an election conducted in the manner of a bond election, a district may make payments under a contract from taxes for debt that does not exceed 30 years.*

*(b) [(d)] A contract may provide that the district will make payments under the contract from proceeds from the sale of notes or bonds, from taxes, from any other income of the district, or from any combination of these.*

*(c) [(e)] A district may make payments under a contract from taxes, other than maintenance taxes, after the provisions of the contract have been approved by a majority of the electors voting at an election held for that purpose.*

*(d) [(f)] Any contract election may be held at the same time as and in conjunction with an election to issue bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.*

*(e) A district created pursuant to Chapter 628, Acts of the 68th Legislature, Regular Session, 1983, is defined as a municipal corporation and political subdivision pursuant to Chapter 405, Acts of the 76th Legislature, Regular Session, 1999, and is authorized to take action accordingly.*

SECTION 2.59. Subsection (a), Section 182.052, Utilities Code, is amended to read as follows:

*(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.*

SECTION 2.60. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subdivisions (26) and (27) to read as follows:

*(26) "Agricultural use" means any use or activity involving any of the following activities:*

*(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;*

*(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;*

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) wildlife management;

(E) raising or keeping equine animals; and

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(27) "Nursery grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item before sale or lease and typically includes activities associated with the production or multiplying of stock, such as the development of new plants from cuttings, grafts, plugs, or seedlings.

SECTION 2.61. Subsection (e), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) In developing an equitable fee structure under this section, the authority may establish different fee rates on a per acre-foot basis for different types of use. The fees must be equitable between types of uses. The fee rate for agricultural use shall be based on the volume of water withdrawn and may not be more than \$2 per acre-foot ~~[20 percent of the fee rate for municipal use]~~. The authority shall assess the fees on the amount of water a permit holder is authorized to withdraw under the permit.

SECTION 2.62. Section 1.44, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (e) to read as follows:

(e) *The authority may contract for injection or artificial recharge under this section only if provision is made for protecting and maintaining the quality of groundwater in the receiving part of the aquifer, and:*

(1) *the water used for artificial recharge is groundwater withdrawn from the aquifer; or*

(2) *the water is recharged through a natural recharge feature.*

SECTION 2.63. Subsections (a) and (b), Section 4.03, Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, are amended to read as follows:

(a) The authority may establish fees, rates, and charges, *and classifications of fee payers and ratepayers*, as necessary to enable the authority to fulfill the authority's *purposes and* regulatory obligations provided by this Act.

(b) The authority may charge against the owner of a well located in the authority's boundaries a fee on the amount of water pumped from the well. The board shall establish the rate of a fee under this subsection only after a special meeting on the fee. *The board shall by rule exempt from the fee under this subsection those classes of wells that are not subject to groundwater reduction requirements imposed by the subsidence district, except that if any of those classes of wells become subject at a future date to a groundwater reduction requirement imposed by the subsidence district, then the authority may after that date charge the fee under this subsection to those affected classes of wells.* The board by rule may exempt *any other* classes of wells from the fee under this subsection. The board may not apply the fee to a well:

(1) with a casing diameter of less than five inches that serves a single-family dwelling;

(2) regulated under Chapter 27, Water Code;

(3) used for irrigation of agricultural crops; *or*

(4) ~~[that produces 10 million gallons or less annually; or~~

~~[(5)]~~ used solely for electric generation. .

### ARTICLE 3. DISTRICT RATIFICATIONS AND CREATIONS



## PART 1. COW CREEK GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0101. RATIFICATION OF CREATION. (a) The creation of the Cow Creek Groundwater Conservation District in Kendall County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0108 of this part. The district is a governmental agency and a body politic and corporate.

(b) The district may develop and implement regulatory, conservation, and recharge programs that preserve and protect groundwater resources located in the district.

SECTION 3.0102. DEFINITIONS. In this part:

(1) "District" means the Cow Creek Groundwater Conservation District.

(2) "Retail public utility" means a retail public utility as defined by Section 13.002, Water Code, that is providing service in the district on September 1, 2001.

(3) "Well" means any excavation drilled or dug into the ground that may intercept or penetrate a water-bearing stratum or formation.

SECTION 3.0103. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kendall County.

SECTION 3.0104. POWERS. Except as otherwise provided by this part, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

SECTION 3.0105. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Sections 3.0108 and 3.0109 of this part or until this part expires under Section 3.0108 of this part, whichever occurs first.

(c) Initial directors serve until permanent directors are elected under Section 3.0110 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) A director serves until the director's successor has qualified.

(f) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(g) A vacancy in the office of director is filled by appointment of the board until the next election for directors. At the next election for directors, a person shall be elected to fill the position. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

SECTION 3.0106. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this part.

(b) One director shall be elected by the qualified voters of the entire district and one director shall be elected from each county commissioners precinct by the qualified voters of that precinct.

(c) A person shall indicate on the application for a place on the ballot the precinct that the person seeks to represent or that the person seeks to represent the district at large.

(d) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire

term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

(e) To be eligible to be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter in the precinct from which the person is elected or appointed. To be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district.

**SECTION 3.0107. TEMPORARY DIRECTORS.** (a) The temporary board of directors shall be appointed by the county commissioners court. One temporary director shall be appointed from each commissioners precinct, and one temporary director shall be a director at large.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Natural Resource Conservation Commission shall appoint the necessary number of persons to fill all vacancies on the board.

**SECTION 3.0108. CONFIRMATION AND INITIAL DIRECTORS ELECTION.** (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors.

(b) A person who wishes to be a candidate for the office of initial director may file an application with the temporary board of directors to have the candidate's name printed on the ballot as provided by Section 3.0106 of this part.

(c) At the confirmation and initial directors election, the temporary board of directors shall have the names of the five persons serving as temporary directors placed on the ballot by commissioners precinct and as at-large director, together with the name of any candidate filing for the office of director as provided by this section.

(d) If a majority of the votes cast at the election favor the creation of the district, the temporary directors shall declare the district created. If a majority of the votes cast at the election are against the creation of the district, the temporary directors shall declare the district defeated. The temporary directors shall file a copy of the election results with the Texas Natural Resource Conservation Commission.

(e) If a majority of the votes cast at the election are against the creation of the district, the temporary directors may call and hold subsequent elections to confirm establishment of the district and to elect initial directors. A subsequent election may not be held earlier than the first anniversary of the date on which the previous election was held. If the district is not created before September 1, 2006, this part expires on that date.

(f) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held under this section.

(g) Section 36.017(a), Water Code, does not apply to the district.

(h) Except as provided by this section, a confirmation and directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

**SECTION 3.0109. INITIAL DIRECTORS.** (a) If the district is created at the election, the temporary directors, at the time the vote is canvassed, shall declare the candidate receiving the most votes for each commissioners precinct or for the at-large director to be elected as the initial directors.

(b) The initial directors for Precincts 2 and 3 serve until the first regular meeting of the board of directors held after the first permanent directors election under Section 3.0110 of this part. The initial directors for Precincts 1 and 4 and the initial director representing the district at large serve until the first regular meeting of the board of directors held after the second permanent directors election under Section 3.0110 of this part.

**SECTION 3.0110. ELECTION OF PERMANENT DIRECTORS.** Beginning in the second year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district on the first Saturday in May every two years to elect the appropriate number of directors to the board.

SECTION 3.0111. ADDITIONAL AUTHORITY. (a) The district may contract with one or more state agencies or other governmental bodies, including a county, a river authority, or another district, to carry out any function of the district.

(b) The district may require a drilling permit before a new well is drilled or an existing well is substantially altered. Notwithstanding an exemption for a well under Section 36.117, Water Code, written authorization granted by the district must be received before a new well is drilled or an existing well is substantially altered.

(c) The district may participate in the construction, implementation, and maintenance of best management practices for water resource management in the district and may engage in and promote the acceptance of best management practices through education efforts sponsored by the district. Construction, implementation, and maintenance of best management practices must address water quantity and quality practices such as brush management, prescribed grazing, recharge structures, water and silt detention and retention structures, plugging of abandoned wells, rainwater harvesting, and other treatment measures for the conservation of water resources.

(d) Reasonable fees, as determined by the district, may be imposed on an annual basis on each nonexempt well. The district shall adopt any rules necessary for the assessment and collection of fees under this subsection.

(e) The district may use money collected from fees:

- (1) in any manner necessary for the management and operation of the district;
- (2) to pay all or part of the principal of and interest on district bonds or notes; and
- (3) for any purpose consistent with the district's certified water management plan.

(f) The district shall grant an exemption or other relief from ad valorem taxes on property on which a water conservation initiative has been implemented. The district shall adopt rules to implement this subsection. A retail public utility shall receive the same exemption or relief from ad valorem taxes on property as any other customer of the district would receive.

(g) As a water conservation initiative to encourage retail public utilities to obtain water supplies from sources other than groundwater, the district shall grant an exemption or other relief from ad valorem taxes on property served by a retail public utility based on:

- (1) the percentage of potable water supplied within the district by the retail public utility from sources other than groundwater compared to the total water supplied by the retail public utility for the preceding year; and
- (2) the percentage of wastewater effluent produced by the retail public utility that is used as reclaimed water within the district compared to the total wastewater effluent produced by the retail public utility for the preceding year. The district may consider the impact of floods and equipment breakage on the retail public utility's ability to supply water from sources other than groundwater.

(h) The total amount of the exemption or other relief from ad valorem taxes may not exceed one-half of the tax levied by the district.

SECTION 3.0112. PROHIBITED ACTS. The district may not:

- (1) impose an ad valorem property tax for administrative, operation, or maintenance expenses that exceeds the lesser of the rate approved by the majority of the qualified voters voting in the election authorizing the tax, or three cents per \$100 valuation;
- (2) require the owner of a well used solely for domestic or livestock purposes to install a meter or measuring device on the well;
- (3) enter into any contract or engage in any action to supply water to any person in the service area of any municipality or retail public utility located in the district, except with the consent of the municipality or retail public utility; or
- (4) issue any bonds secured by ad valorem taxes before September 1, 2004.

## PART 2. CROSSROADS GROUNDWATER CONSERVATION DISTRICT

**SECTION 3.0201. RATIFICATION OF CREATION.** The creation of the Crossroads Groundwater Conservation District in Victoria County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0210 of this part.

**SECTION 3.0202. DEFINITIONS.** In this part:

- (1) "Board" means the district's board of directors.
- (2) "Commissioners court" means the Victoria County Commissioners Court.
- (3) "District" means the Crossroads Groundwater Conservation District.

**SECTION 3.0203. LEGISLATIVE FINDINGS.** The legislature finds that:

- (1) the organization of the district is feasible and practicable;
- (2) all of the land to be included in, and the residents of, the district will benefit from the creation of the district;
- (3) there is a public necessity for the district; and
- (4) the creation of the district will provide a benefit and utility to the public.

**SECTION 3.0204. BOUNDARIES.** The boundaries of the district are coextensive with the boundaries of Victoria County.

**SECTION 3.0205. APPLICATION OF CHAPTER 36, WATER CODE; GENERAL POWERS AND DUTIES.** (a) Except to the extent of any conflict with this part or as specifically limited by this part, the district is governed by and subject to Chapter 36, Water Code, and may exercise all of the powers contained in that chapter, including the power to issue bonds and levy and collect taxes and the power of eminent domain. The district may exercise all of the duties provided by Chapter 36, Water Code.

(b) This part prevails over any conflicting or inconsistent provision of Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999.

**SECTION 3.0206. BOARD OF DIRECTORS.** (a) The district is governed by a board of seven directors.

(b) The directors for Places 1-4 are appointed by the commissioners court. The directors for Places 5-7 are appointed by the city council of the City of Victoria.

(c) The directors shall select from their members persons to serve as chairman, vice chairman, and secretary.

**SECTION 3.0207. QUALIFICATIONS OF BOARD MEMBERS.** To be qualified for appointment as a director, a person must be a resident of the district and must be at least 18 years of age.

**SECTION 3.0208. TERM OF OFFICE.** (a) Except for the temporary and initial directors of the district, directors serve staggered four-year terms.

(b) A vacancy in the office of director is filled for the remainder of the term by appointment by the commissioners court or the city council of the City of Victoria, as appropriate.

**SECTION 3.0209. TEMPORARY DIRECTORS.** (a) On September 1, 2001, the following persons are designated as temporary directors of the district:

- (1) Place 1: Mark Dierlam
- (2) Place 2: Rocky Sanders
- (3) Place 3: S. F. Ruschhaupt III
- (4) Place 4: Joseph Dial
- (5) Place 5: Stephen Diebel
- (6) Place 6: Jerry James
- (7) Place 7: Denise McCue

(b) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director for any reason, the commissioners court shall appoint a person to fill a

vacancy in Place 1, 2, 3, or 4, and the city council of the City of Victoria shall appoint a person to fill a vacancy in Place 5, 6, or 7.

(c) The temporary directors shall select from their members persons to serve as chairman, vice chairman, and secretary.

(d) The temporary directors serve until they declare the district created, at which time they become the initial directors of the district under Section 3.0211 of this part.

(e) To be qualified to serve as a temporary director, a person must be a resident of Victoria County and at least 18 years of age.

SECTION 3.0210. CONFIRMATION ELECTION. (a) Not later than October 1, 2001, and without the necessity of having a petition presented, the temporary directors shall meet and call an election to be held not later than January 1, 2002, within the boundaries of the proposed district to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to an election called under this section.

(c) The ballot for the election shall be printed to provide for a vote for or against the following propositions:

(1) the creation of the Crossroads Groundwater Conservation District in Victoria County; and

(2) the levy and collection of a property tax in the district.

(d) The temporary board may include other propositions on the ballot that it considers necessary.

(e) If a majority of votes cast at the election favor the creation of the district, the temporary directors shall declare the district created. If a majority of the votes cast at the election are against the creation of the district, the temporary directors shall declare the district defeated. The temporary directors shall file a copy of the election results with the Texas Natural Resource Conservation Commission.

(f) If the creation of the district is defeated, further elections may be called and held after the first anniversary of the most recent confirmation election. If the district is not created by September 1, 2006, this part expires.

SECTION 3.0211. INITIAL DIRECTORS. (a) On confirmation of the creation of the district under Section 3.0210 of this part, the temporary directors become the initial directors of the district and serve terms as provided by Subsection (b) of this section, except that not later than the 60th day after the date on which the temporary directors declare the district created, the commissioners court may replace any director in Places 1-4 and the city council of the City of Victoria may replace any director in Places 5-7.

(b) The initial directors for Places 1, 3, 5, and 7 serve for four years following the confirmation of the district. The initial directors for Places 2, 4, and 6 serve for two years following the confirmation of the district.

(c) If, for any reason, an appointed director is not qualified to take office at the first regular meeting of the board following the director's appointment, the director for that place shall continue to serve until a successor has qualified.

SECTION 3.0212. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds two cents on the \$100 valuation of taxable property in the district.

### PART 3. HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0301. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, of the Hays Trinity Groundwater Conservation District in Hays County is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 3.0309 of this part.

SECTION 3.0302. DEFINITION. In this part, "district" means the Hays Trinity Groundwater Conservation District.

SECTION 3.0303. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Hays County, Texas, excluding any area in Hays County that is, on the effective date of this Act, within another groundwater conservation district with authority to require a permit to drill or alter a well for the withdrawal of groundwater. Not later than the 30th day after the date of the first meeting of the board of directors of the district, and before a confirmation election is held, the board shall prepare and file a description of district boundaries with the Hays County clerk and the Texas Natural Resource Conservation Commission.

SECTION 3.0304. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or inconsistent with this part, including any provision of Chapter 133I, Acts of the 76th Legislature, Regular Session, 1999.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this part:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter 1, Chapter 36, Water Code.

(c) The district may not enter property to inspect an exempt well without the property owner's permission.

(d) The Hays County Commissioners Court by resolution may require an election to affirm or reverse a decision of the board of directors of the district not later than six months after the date of the decision.

(e) The district may not adopt standards for the construction of a residential well that are more stringent than state standards for a residential well.

SECTION 3.0305. EXEMPT WELLS. (a) The following wells are exempt from the requirements of Chapter 36, Water Code, and may not be regulated, permitted, or metered by the district:

- (1) a well used for domestic use by a single private residential household and producing less than 25,000 gallons per day; and
- (2) a well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations.

(b) The district may not require a permit to construct a well described by Subsection (a)(2) of this section.

(c) A well used for dewatering and monitoring in the production of coal or lignite is exempt from permit requirements, regulations, and fees imposed by the district.

SECTION 3.0306. FISCAL RESPONSIBILITIES. (a) The district annually shall prepare a budget showing proposed expenditures and disbursements and estimated receipts and collections for the next fiscal year and shall hold a public hearing on the proposed budget. The district must publish notice of the hearing at least once in a newspaper of general circulation in the county not later than the 10th day before the date of the hearing. A taxpayer of the district is entitled to appear at the hearing to be heard regarding any item in the proposed budget.

(b) At the written request of the Hays County Commissioners Court, the county auditor shall audit the performance of the district. The court may request a general audit of the performance of the district or may request an audit of only one or more district matters.

SECTION 3.0307. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.0309 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.0310 of this part.

(d) Permanent directors serve staggered two-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If there is a vacancy on the board, the Hays County Commissioners Court shall appoint a director to serve the remainder of the term.

(h) A director may not receive a salary or other compensation for service as a director but may be reimbursed for actual expenses of attending meetings at the rate in effect for employees of Hays County.

SECTION 3.0308. METHOD OF ELECTING DIRECTORS: SINGLE-MEMBER DISTRICTS. (a) The temporary directors shall draw five numbered, single-member districts for electing directors.

(b) For the conduct of an election under Section 3.0309 or Section 3.0310 of this part, the board shall provide for one director to be elected from each of the single-member districts. A director elected from a single-member district represents the residents of that single-member district.

(c) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the single-member district that the person represents or seeks to represent.

(d) The initial or permanent directors may revise the districts as necessary or appropriate. The board of directors shall revise each single-member district after each federal decennial census to reflect population changes. At the first election after the single-member districts are revised, a new director shall be elected from each district. The directors shall draw lots to determine which two directors serve one-year terms and which three directors serve two-year terms.

SECTION 3.0309. CONFIRMATION AND INITIAL DIRECTORS ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under Section 3.0308 of this part may file for an initial director's position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.0310. ELECTION OF DIRECTORS. (a) On the first Saturday in May or the first Tuesday after the first Monday in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve two-year terms and two directors to serve one-year terms.

(b) On the first Saturday in May or the first Tuesday after the first Monday in November, as applicable, of each subsequent second year following the election held under Subsection (a) of this section, the appropriate number of directors shall be elected.

SECTION 3.0311. OTHER ELECTIONS. An election held by the district, other than an election under Section 3.0309 or 3.0310 of this part, must be scheduled to coincide with a general election in May or November.

**SECTION 3.0312. FUNDING AUTHORITY.** (a) Except as provided by Sections 3.0305(b) and (c) of this part, the district may require a permit for the construction of a new well completed after the effective date of this Act and may charge and collect a construction permit fee not to exceed \$300.

(b) The district may levy and collect a water utility service connection fee not to exceed \$300 for each new water service connection made after the effective date of this Act. This subsection does not apply to a water utility that has surface water as its sole source of water.

(c) Notwithstanding Section 3.0304(a) of this part or Subchapter G, Chapter 36, Water Code, the district may not impose a tax or assess or collect any fees except as authorized by Subsection (a) or (b) of this section.

**SECTION 3.0313. EXPIRATION DATE.** If the creation of the district is not confirmed at a confirmation election held under Section 3.0309 of this part before September 1, 2003, this part expires on that date.

#### **PART 4. LONE WOLF GROUNDWATER CONSERVATION DISTRICT**

**SECTION 3.0401. RATIFICATION OF CREATION.** The creation of the Lone Wolf Groundwater Conservation District in Mitchell County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0407 of this part.

**SECTION 3.0402. DEFINITION.** In this part, "district" means the Lone Wolf Groundwater Conservation District.

**SECTION 3.0403. GENERAL POWERS.** The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

**SECTION 3.0404. BOARD OF DIRECTORS.** (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.0407 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.0408 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

**SECTION 3.0405. COMPENSATION OF DIRECTORS.** A director is not entitled to fees of office but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

**SECTION 3.0406. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS.** (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) To be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be eligible to be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:



- (1) the precinct that the person seeks to represent; or
- (2) that the person seeks to represent the district at large.

(e) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

SECTION 3.0407. CONFIRMATION AND INITIAL DIRECTORS ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director position and blank spaces to write in the names of other persons. A temporary director who is eligible to be a candidate under Section 3.0406 of this part may file for an initial director position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.0408. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 3.0409. LIMITATION ON TAXATION. The district may levy property taxes at a rate not to exceed 20 cents on each \$100 of assessed valuation to pay any part of the bonds or notes issued by the district if the authority to impose property taxes under this part is approved by a majority of the voters voting at a confirmation election under Section 3.0407 of this part or at a separate election called for that purpose by the board of directors.

SECTION 3.0410. EXPIRATION. If the creation of the district is not confirmed at a confirmation election held under Section 3.0407 of this part before September 1, 2003, the district is dissolved and this part expires on that date.

## PART 5. LOST PINES GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0501. RATIFICATION OF CREATION. The creation of the Lost Pines Groundwater Conservation District in Bastrop and Lee counties by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0507 of this part.

SECTION 3.0502. DEFINITIONS. In this part:

(1) "District" means the Lost Pines Groundwater Conservation District.

(2) "Public utility" means any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling facilities in the state for providing potable water service for compensation.

SECTION 3.0503. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Bastrop and Lee counties, Texas.

SECTION 3.0504. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter

36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

(b) The district may not impose a tax. The district may assess regulatory pumping fees for water produced in or exported from the district. The regulatory pumping fees the district assesses for water for crop or livestock production or other agricultural uses may not exceed 20 percent of the rate applied to water for municipal uses. Regulatory pumping fees based on the amount of water withdrawn from a well may not exceed:

- (1) \$1 per acre-foot for water used for the purpose of irrigating agricultural crops; or
- (2) 17 cents per thousand gallons for water used for any other purpose.

(c) The district may adopt a rule exempting a well that is not capable of producing more than 50,000 gallons of groundwater a day from a permit requirement, a fee, or a restriction on production.

**SECTION 3.0505. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION.** (a) Groundwater wells drilled or operated within the district under permits issued by the Railroad Commission of Texas are under the exclusive jurisdiction of the railroad commission and are exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a railroad commission permit may be used within or exported from the district without obtaining a permit from the district.

(c) To the extent groundwater production exceeds railroad commission authorization, the holder of the railroad commission permit must apply to the district for appropriate permits for the excess production and is subject to the applicable regulatory fees.

(d) Groundwater produced from wells under the jurisdiction of the railroad commission is generally exempt from water district fees. However, the district may impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the district under this subsection may not exceed the fee imposed on other groundwater producers in the district.

**SECTION 3.0506. BOARD OF DIRECTORS.** (a) The district is governed by a board of 10 directors.

(b) Five directors shall be appointed from Bastrop County by the county judge of Bastrop County and five directors shall be appointed from Lee County by the county judge of Lee County.

(c) Temporary directors serve until their successors are appointed and have qualified.

(d) The temporary directors shall draw lots to determine:

(1) which three directors from each county will serve four-year terms that expire December 31, 2005; and

(2) which two directors from each county will serve two-year terms that expire December 31, 2003.

(e) In each subsequent second year following the initial appointment of directors, the appropriate number of directors shall be appointed.

(f) Except as provided by Subsection (d) of this section, directors serve staggered four-year terms.

(g) Directors may serve consecutive terms.

(h) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(i) A director serves until the director's successor has qualified.

(j) If a vacancy occurs on the board of directors, the board may appoint a director to serve the remainder of the term.

(k) A director may receive fees of office as provided by Section 36.060, Water Code, and is entitled to reimbursement for reasonable actual expenses incurred in performing duties as a director.

SECTION 3.0507. INITIAL MEETING AND CONFIRMATION ELECTION. (a) As soon as practicable after September 1, 2001, the temporary directors shall meet to set the date for and call the confirmation election. The directors shall hold the meeting in conjunction with the regularly scheduled meeting of the directors.

(b) The election shall be held on the authorized election date in November if the United States Department of Justice has precleared this part by that time. If this part has not been precleared by the November election date, the confirmation election shall be held at the next authorized election date. The district shall contract with the county clerks of Bastrop and Lee counties to conduct the election.

(c) Except as provided by this section, the confirmation election must be conducted as provided by Sections 36.017 and 36.018, Water Code, and the Election Code.

(d) If a majority of the votes cast at an election held under this section is against the confirmation of the district, the temporary directors may not call another election under this section before the first anniversary of that election.

SECTION 3.0508. REGIONAL COOPERATION. The district shall:

(1) adopt a management plan detailing proposed efforts of the district to cooperate with other groundwater conservation districts;

(2) participate as needed in coordination meetings with adjacent groundwater conservation districts that share one or more aquifers with the district;

(3) coordinate the collection of data with adjacent groundwater conservation districts in such a way as to achieve relative uniformity of data type and quality;

(4) provide groundwater level information to adjacent groundwater conservation districts;

(5) investigate any groundwater pollution to identify the pollution's source;

(6) notify adjacent groundwater conservation districts and all appropriate agencies of any groundwater pollution detected and the source of pollution identified;

(7) provide to adjacent groundwater conservation districts annually an inventory of water wells in the district and an estimate of groundwater production within the district; and

(8) include adjacent groundwater conservation districts on mailing lists for district newsletters and information regarding seminars, public education events, news articles, and field days.

SECTION 3.0509. EXPIRATION. If the creation of this district is not confirmed at a confirmation election held under Section 3.0507 of this part before September 1, 2005, this part expires on that date.

SECTION 3.0510. CONFLICTS. If another bill relating to the Lost Pines Groundwater Conservation District is enacted by the 77th Legislature, Regular Session, 2001, and becomes law, then, to the extent of any conflict between that Act and this part, the provisions of that Act shall prevail.

#### PART 6. MCMULLEN GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0601. RATIFICATION OF CREATION. The creation of the McMullen Groundwater Conservation District in McMullen County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0607 of this part.

SECTION 3.0602. DEFINITION. In this part, "district" means the McMullen Groundwater Conservation District.

SECTION 3.0603. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of McMullen County.

SECTION 3.0604. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including

Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Natural Resource Conservation Commission.

**SECTION 3.0605. BOARD OF DIRECTORS.** (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.0607 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.0608 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If there is a vacancy on the board, the remaining directors shall appoint a director to serve the remainder of the term.

**SECTION 3.0606. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS.** (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) To be qualified as a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

**SECTION 3.0607. CONFIRMATION AND INITIAL DIRECTORS ELECTION.** (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the names of the persons serving as temporary directors who intend to run for an initial director position and are qualified to be a candidate under Section 3.0606 of this part together with the name of any candidate filing for an initial director position and blank spaces to write in the names of other persons.

(c) If the district is created at the election, the temporary board of directors, at the time the vote is canvassed, shall:

(1) declare the qualified person who receives the most votes for each position to be elected as the initial director for that position; and

(2) include the results of the initial directors election in the district's election report to the Texas Natural Resource Conservation Commission.

(d) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(e) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(f) If a majority of the votes cast at an election held under this section is against the confirmation of the district, the temporary directors may not call another election under this section before the first anniversary of that election.

SECTION 3.0608. ELECTION OF PERMANENT DIRECTORS. (a) On the first Saturday in October of the second year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of directors from county commissioners precincts one and three, each of whom serves a two-year term, and directors from county commissioners precincts two and four and the director at large, each of whom serves a four-year term.

(b) On the first Saturday in October of each subsequent second year following the election, the appropriate number of directors shall be elected to the board, each of whom serves a four-year term.

SECTION 3.0609. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds five cents on the \$100 valuation of taxable property in the district.

SECTION 3.0610. EXPIRATION. If the creation of the district is not confirmed at a confirmation election held under Section 3.0607 of this part before September 1, 2003, this part expires on that date.

#### PART 7. KIMBLE COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0701. CREATION. (a) A groundwater conservation district, to be known as the Kimble County Groundwater Conservation District, is created in Kimble County, subject to approval at a confirmation election under this part. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.0702. DEFINITION. In this part, "district" means the Kimble County Groundwater Conservation District.

SECTION 3.0703. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kimble County, Texas, excluding that part of Kimble County that lies within the boundaries of the Hickory Underground Water District.

SECTION 3.0704. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.0705. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or is inconsistent with this part.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this part:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

**SECTION 3.0706. BOARD OF DIRECTORS.** (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under this part.

(c) Initial directors serve until permanent directors are elected under this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

**SECTION 3.0707. COMPENSATION OF DIRECTORS.** A director is not entitled to fees of office but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

**SECTION 3.0708. TEMPORARY DIRECTORS.** (a) The temporary board of directors consists of five members appointed by the Commissioners Court of Kimble County.

(b) If a temporary director fails to qualify for office, the Commissioners Court of Kimble County shall appoint a person to fill the vacancy.

**SECTION 3.0709. METHOD OF ELECTING DIRECTORS: SINGLE-MEMBER DISTRICTS.** (a) The temporary directors shall draw five numbered, single-member districts for electing directors.

(b) For the conduct of an election under the following two sections of this part, the board shall provide for one director to be elected from each of the single-member districts. A director elected from a single-member district represents the residents of that single-member district.

(c) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the single-member district that the person represents or seeks to represent.

(d) The initial or permanent directors may revise the districts as necessary or appropriate. The board of directors shall revise each single-member district after each federal decennial census to reflect population changes. At the first election after the single-member districts are revised, a new director shall be elected from each district. The directors shall draw lots to determine which two directors serve two-year terms and which three directors serve four-year terms.

**SECTION 3.0710. CONFIRMATION AND INITIAL DIRECTORS ELECTION.** (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under the preceding section of this part may file for an initial director's position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

**SECTION 3.0711. ELECTION OF DIRECTORS.** (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

**SECTION 3.0712. TAX RATE.** The district may not levy a tax to pay any part of bonds or notes issued by the district that exceeds 20 cents on each \$100 of assessed valuation.

**SECTION 3.0713. EFFECTIVE DATE; EXPIRATION DATE.** (a) This part takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under this part before September 1, 2003, this part expires on that date.

#### PART 8. RED SANDS GROUNDWATER CONSERVATION DISTRICT

SECTION 3.0801. RATIFICATION OF CREATION. The creation of the Red Sands Groundwater Conservation District in Hidalgo County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0808 of this part.

SECTION 3.0802. DEFINITION. In this part, "district" means the Red Sands Groundwater Conservation District.

SECTION 3.0803. BOUNDARIES. The district includes all of the territory contained in the following described area:

A 19,232 acre tract more or less out of San Salvador Del Tule Grant as recorded in Volume 10, Page 58 of the Hidalgo County, Texas map records and out of the Santa Anita Grant as recorded in Volume 7, Page 38 of the Hidalgo County, Texas map records.

Commencing at the Southeast Corner of this here in described boundary tract, said point being the intersection of the centerline of U.S. Highway 281 and the centerline of Farm to Market Road number 490 (F.M. 490) (West Hargill Road) as shown in the map of San Salvador Del Tule Grant as recorded in Volume 10, Page 58 of the Hidalgo County map records. Said point is also the point of beginning.

Thence, Westerly along the center line of the F.M. 490, an approximate distance of 18,400 feet to a point on the West line of San Salvador Del Tule Grant, said point also being the intersection of the centerline of F.M. 490 and the West line of the San Salvador Del Tule Grant,

Thence, Northerly along the West line of the San Salvador Del Tule Grant and the East line of the Santa Anita Grant at an approximate distance of 21,300 feet to a point, said point being an inside corner of this herein described tract, and also being the Southeast corner of Redland Vineyards Subdivision as recorded in Volume 4, Page 51 of the Hidalgo County map records,

Thence, Westerly along the South line of the Redland Vineyards Subdivision, an approximate distance of 4,238 feet to a point, said point being an outside corner of this herein described tract, said point also being the Southwest corner of the Redland Vineyard Subdivision,

Thence, Northerly with the West line of Redland Vineyards Subdivision, at approximately 4,590.50 feet past a point, said point being the Northwest corner of Redland Vineyard Subdivision, and the Southwest corner of Delbridge Subdivision as recorded in Volume 5, Page 11, Hidalgo County map records, and continuing Northerly along the West line of Delbridge Subdivision for an approximate total distance of 6,646 feet to a point, said point being an inside corner of this herein described tract, and also being the Northwest corner of Delbridge Subdivision,

Thence, Westerly along the South line of a 196.37 acres tract, known as the A.B. De Kock Tract, an approximate distance of 3,500 feet past the Southeast corner of share 4, out of the 8,374.70 acre tract partition out of the Santa Anita Grant as recorded in Volume 7, Page 38, in the Hidalgo County map records and continuing Westerly for an approximate total distance of 6,500 feet to a point, said point being an outside corner of this herein described tract and also being the Southwest corner of share 4,

Thence, Northerly along the West line of share 4, an approximate total distance of 19,143 feet to a point, said point being the Northwest corner of this herein described tracts and, the intersection of the West line of share 4 and the centerline of Farm to Market Road number 1017, (F.M. 1017)

Thence, in a Southeasterly direction, with the Right-of-Way centerline of Farm to Market Road number 1017 (F.M. 1017) an approximate total distance of 27,800 feet to a point, said point being the Northeast corner of this herein described tract, and also being the intersection of the centerline of F.M. 1017 Right-of-Way and the center line of the U.S. Highway 281 Right-Of-Way,

Thence, in a Southerly direction, with the centerline of U.S. Highway 281 Right-Of-Way, an approximate distance of 7,500 feet past Floral Road, and at approximate 21,700 feet past Red Gate Road and at approximate 29,700 feet past Laguna Seca Road and for an approximate total distance of 39,300 feet to the point of beginning of this here in described tract, said tract contains 19,232 Acres, More or Less.

SECTION 3.0804. FINDINGS RELATIVE TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in the copying of the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 3.0805. GENERAL POWERS. (a) Except as provided by this part, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state, to be exercised by and through the Texas Natural Resource Conservation Commission.

SECTION 3.0806. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors, each elected at large to one of five numbered places.

(b) To be eligible to serve as a director, an individual must reside in the district.

(c) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(d) Permanent directors serve staggered three-year terms.

(e) A director serves until the director's successor has qualified.

(f) A vacancy in the office of director shall be filled by appointment of the board of directors until the next election of directors, at which election a person shall be elected to fill the position. If the position is not scheduled to be filled at the election, the person elected to fill the position serves only the remainder of the unexpired term.

(g) An appointed director who is qualified to serve as a director under Subsection (b) of this section is eligible to run for election to the board of directors.

SECTION 3.0807. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

- (1) Lucas Hinojosa;
- (2) Becky Guerra;
- (3) Arcadio Guerra;
- (4) Elizabeth Ann Sweet; and
- (5) John Cozad.

(b) The temporary directors are not required to meet the eligibility requirements of permanent directors.

(c) Temporary directors serve until permanent directors are elected at the confirmation election under Section 3.0808 of this part.



SECTION 3.0808. CONFIRMATION AND INITIAL DIRECTORS ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the names of the candidates for each of the five numbered positions and blank spaces to write in the names of other persons. Names on the ballot may include persons serving as temporary directors who intend to run for an initial director position together with the name of any candidate filing for an initial director position.

(c) If a majority of the votes cast at the election are in favor of the creation of the district, the temporary board of directors shall declare the district created. If a majority of the votes cast at the election are against the creation of the district, the temporary board of directors shall declare the district defeated. The temporary board of directors shall file a copy of the election results with the Texas Natural Resource Conservation Commission.

(d) If a majority of the votes cast at the election are against the creation of the district, the temporary board of directors may not call another election under this section before the first anniversary of the date of the election.

(e) If the creation of the district is confirmed at the election, the temporary board of directors, at the time the vote is canvassed, shall:

(1) declare the qualified person who receives the most votes for each position to be elected as the initial director for that position; and

(2) include the results of the initial directors election in the district's election report to the Texas Natural Resource Conservation Commission.

(f) The initial directors shall draw lots to determine their terms so that:

(1) one director serves a one-year term that expires on the anniversary of the date the initial directors were elected;

(2) two directors serve two-year terms that expire on the anniversary of the date the initial directors were elected; and

(3) two directors serve three-year terms that expire on the anniversary of the date the initial directors were elected.

(g) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(h) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.0809. ELECTION OF PERMANENT DIRECTORS. Beginning in the first year after the year in which the district is authorized to be created at a confirmation election, the board of directors shall call an election to be held in the district on the first Saturday of the month in which the initial directors were elected under Section 3.0808 of this part and every year after that date to elect the appropriate number of directors to the board.

SECTION 3.0810. ELIGIBLE DISTRICT VOTERS. Any person qualified to vote under the Election Code who resides in the district is eligible to vote in district elections.

SECTION 3.0811. TAXATION AUTHORITY. (a) The board of directors shall impose taxes in accordance with Subchapter G, Chapter 36, Water Code.

(b) Notwithstanding Section 36.201, Water Code, the board of directors may annually impose an ad valorem tax at a rate not to exceed two cents on each \$100 of assessed valuation unless a higher rate is approved by a majority of the voters of the district voting at an election called and held for that purpose.

SECTION 3.0812. TRANSPORTATION OF GROUNDWATER. (a) The board of directors may adopt rules under Section 36.122, Water Code, requiring a permit to transport district groundwater outside the district. The board of directors shall authorize the transportation of groundwater for use outside the district if the board determines that the use is in the public interest. The board of directors may:

- (1) designate uses of water that are in the public interest; and
- (2) establish criteria for permits issued under the rules.

(b) Transportation projects for the use of groundwater outside the district that began before September 1, 2001, may continue without a permit if the use of groundwater is on land contiguous to the district's boundaries and is for domestic or livestock purposes.

SECTION 3.0813. EXPIRATION. If the creation of the district is not confirmed at a confirmation election held under Section 3.0808 of this part before September 1, 2003, this part expires on that date.

**PART 9. REFUGIO GROUNDWATER CONSERVATION DISTRICT**

SECTION 3.0901. RATIFICATION OF CREATION. The creation of the Refugio Groundwater Conservation District in Refugio County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.0907 of this part.

SECTION 3.0902. DEFINITION. In this part, "district" means the Refugio Groundwater Conservation District.

SECTION 3.0903. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Refugio County.

SECTION 3.0904. GENERAL POWERS. The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

SECTION 3.0905. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.0907 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.0908 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If a director fails to qualify for office or if there is at any time a vacancy on the temporary board of directors, the commissioners court shall appoint a person to fill the vacancy.

SECTION 3.0906. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the qualified voters of the entire district, and one director shall be elected from each county commissioners precinct by the qualified voters of that precinct.

(c) To be qualified to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

- (1) the precinct that the person seeks to represent; or
- (2) that the person seeks to represent the district at large.

(e) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

SECTION 3.0907. CONFIRMATION AND INITIAL DIRECTORS ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under Sections 3.0905 and 3.0906 of this part may file for an initial director position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.0908. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 3.0909. EXPIRATION. If the creation of the district is not confirmed at a confirmation election held under Section 3.0907 of this part before September 1, 2003, the district is dissolved and this part expires on that date.

#### PART 10. SOUTHEAST TRINITY GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1001. PURPOSE. The purpose of this part is to ratify the Southeast Trinity Groundwater Conservation District, a locally controlled groundwater district, to protect, recharge, and prevent the waste of groundwater and to control subsidence of water from the groundwater reservoirs.

SECTION 3.1002. RATIFICATION OF CREATION. The creation of the Southeast Trinity Groundwater Conservation District by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that Act, subject to a confirmation election under Section 3.1008 of this part.

SECTION 3.1003. DEFINITIONS. In this part:

- (1) "Board" means the board of directors of the district.
- (2) "Commission" means the Texas Natural Resource Conservation Commission.
- (3) "District" means the Southeast Trinity Groundwater Conservation District.

SECTION 3.1004. BOUNDARIES. The boundaries of the district are as follows:

BEGINNING at the point of intersection of the Bexar County - Comal County - Kendall County line:

THENCE following the meanders of the Cibolo Creek, the Bexar County - Comal County line in an Easterly direction to the point of intersection with latitude 29° 40':

THENCE along 29° 40' in a Southeasterly direction to the point of intersection with Farm to Market Road 3009:

THENCE with the centerline of Farm to Market Road 3009 in a Southerly direction to the point of intersection with the centerline of Schoenthal Road:

THENCE with the centerline of Schoenthal Road in a Northeasterly direction to the point of intersection with the centerline of Farm to Market Road 1863:

THENCE with the centerline of Farm to Market Road 1863 in an Easterly direction to the point of intersection with the centerline of Mission Valley Road:

THENCE with the centerline of Mission Valley Road in a Northeasterly direction to the point of intersection with the centerline of State Highway 46;

THENCE with the centerline of State Highway 46 in a Northwesterly direction to the point of intersection with the centerline of Hueco Springs Loop Road:

THENCE with the centerline of Hueco Springs Loop Road in a Northeasterly then Easterly direction to the point of intersection with the centerline of River Road:

THENCE with the centerline of River Road in a Northeasterly direction to the point of intersection with the Guadalupe River at the First Crossing:

THENCE following the meanders of the Guadalupe River in a Northerly direction to the point of intersection of the centerlines of the Guadalupe River and Deep Creek:

[Note: the next four paragraphs coincide with the Southern boundary of Comal County Voters Precinct 18]

THENCE along the meanders of Deep Creek in a Northeasterly direction to the point of intersection of the centerline of Deep Creek and the South line of the G. F. Lawrence Survey No. 33, Abstract No. 358:

THENCE with the South line of the G. F. Lawrence Survey No. 33, Abstract No. 358 in a Northeasterly, Southeasterly, and Northeasterly direction to the point of intersection of the South centerline of Farm to Market Road 306 being at approximately Engineers Station 397+98.3:

THENCE with the centerline of Farm to Market Road 306 in a Southeasterly direction to the point of intersection of the centerlines of Farm to Market Road 306 and the William Pfeuffer private ranch road:

THENCE with the approximate bearing N 69° E and approximate distance 5,000 feet to an angle point in the Comal County - Hays County Line:

THENCE with the Comal County - Hays County line in a Northwesterly direction to the point of intersection of the Comal County - Hays County line with the Comal County - Blanco County line:

THENCE with the Comal County - Blanco County line in a Southwesterly direction to the point of intersection of the Comal County - Blanco County - Kendall County line, continuing with the Comal County - Kendall County line in a Southwesterly direction to point of intersection of the Kendall County - Comal County - Bexar County line being the Point of Beginning.

SECTION 3.1005. FINDINGS RELATIVE TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 3.1006. AUTHORITY OF DISTRICT. (a) Except as provided by this section or otherwise by this part, the district has the same permitting and general management powers as those granted under Chapter 36, Water Code.

(b) The district has no regulatory jurisdiction over the Edwards Aquifer or any surface water supply.

(c) The board by rule may impose reasonable fees, including fees for groundwater transported out of the district, on each groundwater well in the district that is not exempt from regulation by the district, based on the amount of water withdrawn from the well. The fees may be assessed

annually, based on the size of column pipe used in the wells, pump capacity, or actual, authorized, or anticipated pumpage, to pay the maintenance and operating expenses of the district's regulation of groundwater.

(d) Section 36.205(c), Water Code, does not apply to the district.

(e) The district may assess an ad valorem property tax not to exceed seven cents per \$100 valuation for administrative, operation, and maintenance expenses if approved by a majority of the qualified voters voting in an election authorizing the tax.

(f) Any district conservation fee paid by a retail public utility to the district shall be:

(1) collected by the retail public utility directly as a regulatory fee from the customers of the utility and paid to the district; and

(2) shown as a separate line item on the customer's bill.

(g) Fees may not be assessed for groundwater withdrawn from the Edwards Aquifer.

(h) The district shall determine which classes of wells are exempt from permitting requirements.

(i) The district may not require a permit for:

(1) the drilling of or producing from a well either drilled, completed, or equipped so that it is capable of producing less than 10,000 gallons of water per day; or

(2) the drilling of or alteration of the size of a well or to restrict the production of a well if the water produced or to be produced from the well is or will be used to supply the domestic needs of five or fewer households in which a person who is a member of each household is either the owner of the well, a person related to the owner or to a member of the owner's household within the second degree by consanguinity, or an employee of the owner.

(j) The district may construct according to, implement, and maintain best management practices in the district and may engage in and promote acceptance of best management practices through education efforts sponsored by the district for the purposes of water quality and water availability practices such as brush management, recharge enhancement, water and silt detention and retention structures, plugging of abandoned wells, and other treatment measures for the conservation of groundwater resources.

SECTION 3.1007. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors have been appointed by Comal County Commissioners Court and shall serve until initial directors are elected under Section 3.1008 of this part.

(c) The temporary directors are:

(1) Cal Perrine;

(2) Ernest T. Lee;

(3) Jill Sondeen;

(4) Larry Hull; and

(5) Stovy Bowlin.

(d) Initial directors shall be elected at a confirmation election and serve until permanent directors are elected under Section 3.1009 of this part.

(e) Permanent directors serve staggered four-year terms.

(f) The directors shall be elected from four precincts, and one director will represent the district at large. No more than two precincts may be in a single municipality.

(g) A member of the board must reside in and be a registered voter in the precinct from which the person is elected or appointed if representing a precinct or must reside and be registered to vote in the district if representing the district at large.

(h) Directors may serve consecutive terms.

(i) In an election for board members, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates. A declaration of write-in candidacy must be filed not later than 5 p.m. of the 45th day before election day.

(j) Vacancies in the office of director are filled by appointment of the board. If the vacant office is not scheduled for election within the next two years at the time of the appointment, the board shall order an election for the unexpired term to be held as part of the next regularly scheduled directors election. The appointed director's term ends on qualification of the director elected at that election.

(k) The district may not issue bonds before September 1, 2004.

**SECTION 3.1008. CONFIRMATION ELECTION AND ELECTION OF INITIAL DIRECTORS.** (a) As soon as practicable after September 1, 2001, the temporary board of directors may set the date for, call, and hold an election:

- (1) to confirm establishment of the district;
- (2) to elect five initial directors; and
- (3) to authorize the district to impose a tax.

(b) The election may be held on the first authorized election date after the United States Department of Justice has precleared this part. The district shall contract with the county clerk of Comal County to conduct the election.

(c) The elected initial directors shall draw lots to determine their terms so that:

- (1) two of the initial directors serve two-year terms that expire on the uniform election date in November of the second year after the date the initial directors were elected; and
- (2) the remaining three initial directors serve four-year terms that expire on the uniform election date in November of the fourth year after the year in which the initial directors were elected.

(d) Section 41.001(a), Election Code, does not apply to a confirmation and directors election held as provided by this section.

(e) Except as provided by this section, a confirmation and directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(f) The Comal County Commissioners Court shall pay the expenses of conducting the confirmation and initial directors election, subject to reimbursement from the district if the establishment of the district is confirmed or from available revenues, including funds allocated under Section 36.160, Water Code, if the establishment of the district is defeated.

(g) If the district is defeated, the temporary directors may call and hold subsequent elections to confirm establishment of the district. A subsequent election may not be held earlier than the first anniversary of the date on which the previous election was held. If the district has not been confirmed at an election held under this section before the fourth anniversary of the effective date of this part, the district is dissolved on that date, except that any debts incurred shall be paid and the organization of the district shall be maintained until all debts are paid.

**SECTION 3.1009. ELECTION OF PERMANENT DIRECTORS.** (a) On the uniform election date in November of the second year after the year in which initial directors are elected, an election shall be held in the district to elect two permanent directors for the positions of the two initial directors serving two-year terms.

(b) On the uniform election date in November of each subsequent second year following the election held under Subsection (a) of this section, an election shall be held to elect the appropriate number of permanent directors to the board.

**SECTION 3.1010. COORDINATION WITH OTHER DISTRICTS.** The district may coordinate activities with other groundwater districts that regulate the Trinity Aquifer for the purposes of conjunctively managing the common resource.

**SECTION 3.1011. MODIFICATION OF DISTRICT.** The district may be modified only under Subchapter J, Chapter 36, Water Code, and by subsequent acts of the legislature.

SECTION 3.1012. STATUTORY INTERPRETATION. Except as otherwise provided by this part, if there is a conflict between this part and Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, this part controls.

PART 11. TEXANA GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1101. RATIFICATION OF CREATION. The creation of the Texana Groundwater Conservation District in Jackson County by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.1107 of this part.

SECTION 3.1102. DEFINITION. In this part, "district" means the Texana Groundwater Conservation District.

SECTION 3.1103. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Jackson County.

SECTION 3.1104. GENERAL POWERS. The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.

SECTION 3.1105. BOARD OF DIRECTORS. (a) The district is governed by a board of seven directors.

(b) Temporary directors serve until initial directors are elected under Section 3.1107 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.1108 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If there is a vacancy on the board, the remaining directors shall appoint a director to serve the remainder of the term.

(h) A director may not receive a salary or other compensation for service as a director but may be reimbursed for actual expenses of attending meetings at the rate in effect for employees of Jackson County.

SECTION 3.1106. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) Three directors shall be elected by the qualified voters of the entire district, and one director shall be elected from each county commissioners precinct by the qualified voters of that precinct.

(c) To be qualified to be a candidate for or to serve as a director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire

term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

**SECTION 3.1107. CONFIRMATION AND INITIAL DIRECTORS ELECTION.** (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under Sections 3.1105 and 3.1106 of this part may file for an initial director position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) If the majority of the votes cast at an election held under this section is against the confirmation of the district, the temporary directors may not call another election under this section before the first anniversary of that election.

**SECTION 3.1108. ELECTION OF DIRECTORS.** (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors at large and two directors representing precincts to serve four-year terms and one director at large and two directors representing precincts to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

**SECTION 3.1109. LIMITATION ON TAXATION.** The district may not levy or collect an ad valorem tax at a rate that exceeds two cents on each \$100 valuation of taxable property in the district.

**SECTION 3.1110. CONTRACTS WITH GOVERNMENT ENTITIES.** (a) The district may contract with other government entities.

(b) The district may contract with other governmental entities, including river authorities located in the district, for the performance of any or all district functions. A river authority with which the district contracts under this section may perform district functions as provided by the contract.

## **PART 12. TRI-COUNTY GROUNDWATER CONSERVATION DISTRICT**

**SECTION 3.1201. RATIFICATION OF CREATION.** The creation of the Tri-County Groundwater Conservation District in Foard, Hardeman, and Wilbarger counties by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is ratified as required by Section 15(a) of that chapter, subject to approval at a confirmation election under Section 3.1207 of this part.

**SECTION 3.1202. DEFINITION.** In this part, "district" means the Tri-County Groundwater Conservation District.

**SECTION 3.1203. BOUNDARIES.** The boundaries of the district are coextensive with the boundaries of Foard, Hardeman, and Wilbarger counties.

**SECTION 3.1204. GENERAL POWERS.** The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of the state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law, including Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, that is in conflict or inconsistent with this part.



SECTION 3.1205. BOARD OF DIRECTORS. (a) The district is governed by a board of six directors. Two directors are appointed by the commissioners court of each county in the district.

(b) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(c) Directors other than initial directors serve staggered four-year terms.

(d) A director serves until the director's successor has qualified.

(e) If there is a vacancy on the board, the appropriate commissioners court shall appoint a director to serve the remainder of the term.

(f) The appropriate commissioners court shall appoint a director to succeed a director on or before the date the director's term expires.

(g) A director may not receive a salary or other compensation for service as a director but may be reimbursed for actual expenses of attending meetings.

SECTION 3.1206. APPOINTMENT AND TERMS OF INITIAL DIRECTORS. (a) As soon as practicable after September 1, 2001, the commissioners courts of Foard, Hardeman, and Wilbarger counties shall each appoint two initial directors.

(b) The initial directors serve terms as follows:

(1) the two initial directors appointed by the Foard County Commissioners Court serve terms expiring February 1, 2002;

(2) the two initial directors appointed by the Hardeman County Commissioners Court serve terms expiring February 1, 2004; and

(3) the two initial directors appointed by the Wilbarger County Commissioners Court serve terms expiring February 1, 2006.

SECTION 3.1207. CONFIRMATION ELECTION. (a) The board of directors shall call and hold an election to confirm the establishment of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.1208. TAXING AUTHORITY. The district may levy and collect an ad valorem tax in the district at a rate not to exceed one cent on each \$100 of assessed valuation.

SECTION 3.1209. EXPIRATION. If the creation of the district is not confirmed at a confirmation election held under Section 3.1207 of this part before September 1, 2003, the district is dissolved and this part expires on that date.

### PART 13. BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1301. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, of the Brazos Valley Groundwater Conservation District in Robertson and Brazos counties is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 3.1312 of this part.

SECTION 3.1302. DEFINITION. In this part, "district" means the Brazos Valley Groundwater Conservation District.

SECTION 3.1303. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Robertson and Brazos counties, Texas.

SECTION 3.1304. GENERAL POWERS. (a) Except as otherwise provided by this part, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or inconsistent with this part,

including any provision of Chapter 36, Water Code, or Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

**SECTION 3.1305. BONDS.** The district may issue bonds and notes under Sections 36.171-36.181, Water Code, not to exceed \$500,000 of total indebtedness at any time.

**SECTION 3.1306. FEES.** (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) The initial fee shall be based on the amount of water to be withdrawn from the well. The initial fee:

- (1) may not exceed:

- (A) \$0.25 per acre-foot for water used for irrigating agricultural crops or operating existing steam electric stations; or

- (B) \$0.0425 per thousand gallons for water used for any other purpose; and

- (2) may be increased at a cumulative rate not to exceed three percent per year.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the district and the transporter; or

- (2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

**SECTION 3.1307. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION.** (a) Groundwater wells drilled or operated within the district under permits issued by the Railroad Commission of Texas are under the exclusive jurisdiction of the railroad commission and are exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a railroad commission permit may be used within or exported from the district without obtaining a permit from the district.

(c) To the extent groundwater production exceeds railroad commission authorization, the holder of the railroad commission permit must apply to the district for appropriate permits for the excess production and is subject to the applicable regulatory fees.

(d) Groundwater produced from wells under the jurisdiction of the railroad commission is generally exempt from water district fees. However, the district may impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the district under this subsection may not exceed the fee imposed on other groundwater producers in the district.

**SECTION 3.1308. REGIONAL COOPERATION.** (a) To provide for regional continuity, the district shall:

- (1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;

- (2) coordinate the collection of data with other groundwater districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;

- (3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;

- (4) provide groundwater level data to other groundwater districts in its designated management area;

(5) investigate any groundwater and aquifer pollution with the intention of locating its source;

(6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;

(7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code, covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, Water Code, the district shall forward a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under this subsection shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that chapter. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

- (A) another district in the management area has failed to adopt rules;
- (B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or
- (C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1309. BOARD OF DIRECTORS. (a) The district is governed by a board of eight directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1310 of this part and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1310. APPOINTMENT OF DIRECTORS. (a) The Robertson County Commissioners Court shall appoint four directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county; and
- (4) one must represent industrial interests in the county.

(b) The Brazos County Commissioners Court shall appoint two directors, of whom:

- (1) one must represent rural water suppliers' interests in the county; and
- (2) one must represent agricultural interests in the county.

(c) The governing body of the City of Bryan, with the approval of the Brazos County Commissioners Court, shall appoint one director.

(d) The governing body of the City of College Station, with the approval of the Brazos County Commissioners Court, shall appoint one director.

(e) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(f) The four initial directors from Robertson County shall draw lots to determine their terms. Two initial directors from Robertson County and the two initial directors from Brazos County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under Section 3.1312 of this part. The remaining four initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate governing body shall appoint the appropriate number of permanent directors.

SECTION 3.1311. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided in this part, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Robertson County Courthouse.

SECTION 3.1312. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) Confirmation of the district requires a vote in favor of confirmation by a majority of the qualified voters voting in the election.

(d) The district is dissolved and this part expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

#### PART 14. POST OAK SAVANNAH GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1401. CREATION. (a) A groundwater conservation district, to be known as the Post Oak Savannah Groundwater Conservation District, is created in Milam and Burleson counties, subject to approval at a confirmation election under Section 3.1412 of this part. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.1402. DEFINITION. In this part, "district" means the Post Oak Savannah Groundwater Conservation District.

SECTION 3.1403. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Milam and Burleson counties.

SECTION 3.1404. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.1405. GENERAL POWERS. (a) Except as otherwise provided by this part, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part

prevails over any provision of general law that is in conflict or inconsistent with this part, including any provision of Chapter 36, Water Code.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Section 36.105, relating to eminent domain; and
- (2) Sections 36.020 and 36.201-36.204, relating to taxes.

**SECTION 3.1406. FEES.** (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Fees may not exceed:

- (1) one dollar per acre-foot for water used for irrigating agricultural crops; or
- (2) 17 cents per thousand gallons for water used for any other purpose.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the district and the transporter; or
- (2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

**SECTION 3.1407. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION.** (a) Groundwater wells drilled or operated within the district under permits issued by the Railroad Commission of Texas are under the exclusive jurisdiction of the railroad commission and are exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a Railroad Commission of Texas permit may be used within or exported from the district without obtaining a permit from the district.

(c) To the extent groundwater production exceeds Railroad Commission of Texas authorization, the holder of the railroad commission permit must apply to the district for appropriate permits for the excess production and is subject to the applicable regulatory fees.

(d) Groundwater produced from wells under the jurisdiction of the Railroad Commission of Texas is generally exempt from water district fees. However, the district may impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the district under this subsection may not exceed the fee imposed on other groundwater producers in the district.

**SECTION 3.1408. REGIONAL COOPERATION.** (a) To provide for regional continuity, the district shall:

- (1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;
- (2) coordinate the collection of data with other groundwater districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;
- (3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;
- (4) provide groundwater level data to other groundwater districts in its designated management area;
- (5) investigate any groundwater and aquifer pollution with the intention of locating its source;
- (6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;
- (7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code, covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, Water Code, the district shall forward a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under this subsection shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that chapter. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

(A) another district in the management area has failed to adopt rules;

(B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1409. BOARD OF DIRECTORS. (a) The district is governed by a board of 10 directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1410 of this part and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A quorum exists when at least two-thirds of the board members are present. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1410. APPOINTMENT OF DIRECTORS. (a) The Milam County Commissioners Court shall appoint five directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.

(b) The Burleson County Commissioners Court shall appoint five directors, of whom:

- (1) one must represent municipal interests in the county;
- (2) one must represent agricultural interests in the county;
- (3) one must represent rural water suppliers' interests in the county;
- (4) one must represent industrial interests in the county; and
- (5) one must represent the interests of the county at large.



(c) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(d) The initial directors shall draw lots to determine their terms. Two initial directors from Milam County and two initial directors from Burleson County serve terms that expire on January 1 of the second year following the confirmation of the district at an election held under Section 3.1412 of this part. The remaining six initial directors serve terms that expire on January 1 of the fourth year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners court shall appoint the appropriate number of permanent directors.

SECTION 3.1411. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided in this part, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Milam County Courthouse.

SECTION 3.1412. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district.

(d) The district is dissolved and this part expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

#### PART 15. MID-EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

SECTION 3.1501. CREATION. (a) A groundwater conservation district, to be known as the Mid-East Texas Groundwater Conservation District, is created in Leon, Madison, and Freestone counties, subject to approval at a confirmation election under Section 3.1512 of this part. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.1502. DEFINITION. In this part, "district" means the Mid-East Texas Groundwater Conservation District.

SECTION 3.1503. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Leon, Madison, and Freestone counties.

SECTION 3.1504. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.1505. GENERAL POWERS. (a) Except as otherwise provided by this part, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or inconsistent with this part, including any provision of Chapter 36, Water Code.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

(1) Section 36.105, relating to eminent domain; and

(2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 3.1506. FEES. (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Fees may not exceed:

- (1) one dollar per acre-foot for water used for irrigating agricultural crops; or
- (2) 17 cents per thousand gallons for water used for any other purpose.

(c) In addition to the fee authorized under Subsection (b) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the district and the transporter; or
- (2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

SECTION 3.1507. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION. (a) Groundwater wells drilled or operated within the district under permits issued by the Railroad Commission of Texas are under the exclusive jurisdiction of the railroad commission and are exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a Railroad Commission of Texas permit may be used within or exported from the district without obtaining a permit from the district.

(c) To the extent groundwater production exceeds Railroad Commission of Texas authorization, the holder of the railroad commission permit must apply to the district for appropriate permits for the excess production and is subject to the applicable regulatory fees.

(d) Groundwater produced from wells under the jurisdiction of the Railroad Commission of Texas is generally exempt from water district fees. However, the district may impose either a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the district under this subsection may not exceed the fee imposed on other groundwater producers in the district.

SECTION 3.1508. REGIONAL COOPERATION. (a) To provide for regional continuity, the district shall:

- (1) participate in a regular annual coordination meeting with other groundwater districts in its designated management area and may hold coordination meetings at other times as needed;
- (2) coordinate the collection of data with other groundwater districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;
- (3) coordinate efforts to monitor water quality with other groundwater districts in its designated management area, local governments, and state agencies;
- (4) provide groundwater level data to other groundwater districts in its designated management area;
- (5) investigate any groundwater and aquifer pollution with the intention of locating its source;
- (6) notify other groundwater districts in its designated management area and all appropriate agencies of any detected groundwater pollution;
- (7) annually provide to other groundwater districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and
- (8) include other groundwater districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

(b) The district shall prepare a comprehensive management plan as required by Section 36.1071, Water Code, covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, Water Code, the district shall forward

a copy of the new or revised management plan to the other districts in its designated management area. The district shall consider the management plans individually and shall compare them to other management plans in the designated management area.

(1) The district shall, by resolution, call for joint planning with the other districts in the designated management area to review and coordinate the management plans and accomplishments for the designated management area. In reviewing and coordinating the management plans, the boards shall consider:

(A) the goals of each management plan and its impact on planning throughout the management area;

(B) the groundwater management standards of each district describing the desired condition of the groundwater source over time as indicated by indices of quantity of water in the source, quality of water produced from the source, springflows, or subsidence of the land surface;

(C) the groundwater withdrawal rates adopted by each district and the effectiveness of those rates in achieving the groundwater management standard of the district;

(D) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(E) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(2) In the management plan the district may establish and coordinate with the other districts within the designated management area an annual total groundwater withdrawal limit and equitable allocation as determined from an evaluation of the overall scientific data of the groundwater resources in the region, including the Texas Water Development Board's groundwater availability model. The determination of sustainable groundwater withdrawal shall be reviewed at least every five years.

(3) Each district participating in the joint planning process initiated under this subsection shall ensure that the groundwater management standards adopted by the district are adequate to protect the groundwater within the area of each district and are not incompatible with the groundwater management standards adopted by the other districts in the management area.

(4) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that chapter. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(5) A district in the management area may file with good cause a petition with the Texas Natural Resource Conservation Commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that:

(A) another district in the management area has failed to adopt rules;

(B) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(C) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(6) The district may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial with districts located within the same management area or in adjacent management areas. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including

aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

(c) The district shall determine biennially, using the overall available scientific data of groundwater resources in the Central Carrizo-Wilcox area, whether pumping within the district or an adjacent district is unreasonably affecting groundwater wells. The district, in agreement with other districts within the designated management area, may adopt mitigation measures in response to such unreasonable adverse effects only if the measures are based on a scientific determination made.

(d) The district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others in adjoining districts.

SECTION 3.1509. BOARD OF DIRECTORS. (a) The district is governed by a board of nine directors.

(b) Initial directors serve until permanent directors are appointed under Section 3.1510 of this part and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 3.1510. APPOINTMENT OF DIRECTORS. (a) The Leon County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(b) The Madison County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(c) The Freestone County Commissioners Court shall appoint three directors, of whom:

(1) one must represent the interests of rural water suppliers or municipalities in the county, or both;

(2) one must represent agricultural interests in the county; and

(3) one must represent industrial interests in the county.

(d) Each of the governing bodies authorized by this section to make an appointment shall appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 45th day after the effective date of this Act.

(e) The initial directors shall draw lots to determine their terms. A simple majority of the initial directors, if an odd number of initial directors are appointed, or half the initial directors, if an even number of initial directors are appointed, serve terms that expire on January 1 of the fourth year following the confirmation of the district at an election held under Section 3.1512 of this part. The remaining initial directors serve terms that expire on January 1 of the second year following the confirmation of the district. On January 1 of the second year following confirmation of the district and every two years after that date, the appropriate commissioners courts shall appoint the appropriate number of permanent directors.

SECTION 3.1511. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided by this part, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Leon County Courthouse.

SECTION 3.1512. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) The district is dissolved and this part expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

#### PART 16. NORTHEAST TRAVIS COUNTY UTILITY DISTRICT

SECTION 3.1601. CREATION. (a) A conservation and reclamation district, to be known as the Northeast Travis County Utility District, is created in Travis County, subject to approval at a confirmation election under Section 3.1611 of this part. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 3.1602. DEFINITION. In this part, "district" means the Northeast Travis County Utility District.

SECTION 3.1603. BOUNDARIES. The district includes the territory contained within the following areas:

Tract No. 1, approximately 146.50 acres of land out of the E. Kirkland Survey No. 7, in Travis County, Texas, being all of that certain tract conveyed to Kathleen Marie England and Jay Lawrence Johnson by Deeds recorded in Volume 11403, Page 374, Volume 11618, Page 104, Volume 11861, Page 120 and Volume 12118, Page 195, Real Property Records of Travis County, Texas;

Tract No. 2, approximately 70.31 acres of land out of the E. Kirkland Survey No. 7 in Travis County, Texas, being all of that certain tract of land conveyed to Charles E. Baker, et ux, by Deed recorded in Volume 7188, Page 1756, Deed Records of Travis County, Texas;

Tract No. 3, approximately 104.34 acres of land out of the G. M. Martin Survey No. 9, Abstract 529, Travis County, Texas, being all of that certain tract called 103.984 acres conveyed to Bernice Becker Zreet, Freida Becker Woodland, Edline Becker McMains, Adolf Becker, Jr., Wilbert Becker and Edwin F. Zreet and Bernice Zreet, Trustees of The Edwin F. and Bernice Zreet Trust dated August 27, 1997, by Deeds recorded in Volume 10215, Page 610, Volume 10537, Page 939, and Volume 13171, Page 102, Real Property

Records of Travis County, Texas, and all of that certain tract called 0.356 of one acre conveyed by Muniment of Title recorded in Document No. 71552 of the Travis County Probate Records;

Tract No. 4, approximately 103.266 acres of land out of the George M. Martin Survey No. 9, Abstract 529, Travis County, Texas, being all of that certain tract conveyed to Kermit Hees and wife, Lydia Hees by Partition Deed recorded in Volume 11552, Page 475, Real Property Records of Travis County, Texas, said 103.266 acre tract being the remainder of that tract called 106-1/2 acres conveyed to W. A. Randig by Deed recorded in Volume 498, Page 219, SAVE AND EXCEPT, that portion deeded to Travis County, Texas for highway purposes by Deed recorded in Volume 2268, Page 195, Deed Records of Travis County, Texas;

Tract No. 5, approximately 177.301 acres of land out of the G. M. Martin Survey in Travis County, Texas, being all of that certain tract of land conveyed to Karolyn P. Graf and Robert L. Pfluger, Trustees of the Lawrence and Willie Mae Pfluger Family Trust by Deeds recorded in Volume 10431, Page 422, Volume 10555, Page 214, and Volume 11091, Page 691, Real Property Records of Travis County, Texas;

Tract No. 6, approximately 107.4 acres of land out of the George M. Martin Survey, Abstract No. 9, and being all of that certain tract of land conveyed to Robert L. Pfluger and Karolyn P. Graf by Deed recorded in Volume 12947, Page 560 and to Robert L. Pfluger, Trustee for Miranda Kimbro and Weston N. Kimbro and Wayne Pfluger, Trustee for Joseph L. Pfluger and Lydia Pfluger, by Deed recorded in Volume 12947, Page 562, Real Property Records of Travis County, Texas;

Tract No. 7, approximately 9.198 acres of land out of the G. M. Martin Survey, Abstract No. 9, in Travis County, Texas, and being all of that certain tract of land conveyed to Peggy Pfluger and Robert L. Pfluger by Deed recorded in Volume 13049, Page 1353, Real Property Records of Travis County, Texas.

SECTION 3.1604. FINDINGS RELATIVE TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to impose taxes, or the legality or operation of the district or its governing body.

SECTION 3.1605. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 3.1606. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 30, 49, and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Natural Resource Conservation Commission.

SECTION 3.1607. DIVISION OF DISTRICT. (a) The district may divide into two or more districts as provided by Sections 51.748-51.753, Water Code, and this section. The proposed district may divide into two or more proposed districts before the establishment of the district is confirmed at the confirmation election held under Section 3.1611 of this part.

(b) A district created by division under this section may divide into two or more districts after the establishment of the district is confirmed at a confirmation election. A proposed district created by division under this section may divide into two or more proposed districts before the establishment of the district is confirmed at a confirmation election.

(c) The district or any district resulting from a division of the district may exercise powers under Chapters 49 and 54, Water Code, to annex or exclude property after a confirmation

election. The temporary board of the proposed district or of any proposed district resulting from a division of the proposed district may, after a hearing, alter the proposed boundaries of the proposed district before the temporary board orders a confirmation election.

(d) The order creating a district by division under this section and Sections 51.748-51.753, Water Code, must give the district an appropriate name that does not conflict with the name of any other district. The provisions of Section 51.749(c), Water Code, relating to naming a district, do not apply.

SECTION 3.1608. ANNEXATION BY MUNICIPALITY. (a) The district is a water or sewer district as defined by Section 43.071, Local Government Code, for purposes of that section.

(b) On annexation of the district by a municipality, the district is dissolved and the municipality shall assume the powers, authority, functions, duties, and outstanding bonded indebtedness of the district.

(c) A municipality that annexes the district must provide full municipal services, as defined by Section 43.056(c), Local Government Code, in the district before the expiration of two and one-half years after the effective date of the annexation, unless certain services cannot reasonably be provided within that period and the municipality proposes a schedule for providing those services. If the municipality proposes a schedule to extend the period for providing certain services, the schedule must provide for the provision of full municipal services before the expiration of four and one-half years after the effective date of the annexation.

SECTION 3.1609. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.1611 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.1612 of this part.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as a director in the manner provided by Section 49.055, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 3.1610. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

- (1) Chris Fields;
- (2) Nate Nickerson;
- (3) Seth Spiker;
- (4) John Pfluger; and
- (5) Steven Thomas.

(b) The temporary directors are not required to own land or reside in the district.

(c) The temporary directors shall take the oath of office and execute bonds to qualify for holding their offices as soon as possible after the effective date of this Act.

(d) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Natural Resource Conservation Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 3.1611. CONFIRMATION AND INITIAL DIRECTORS ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors as provided by Section 49.102, Water Code. The board may submit to the voters propositions to authorize the issuance of bonds, a maintenance tax, and a tax to make payments under a contract.

(b) Section 41.001(a), Election Code, does not apply to an election held under this section.

SECTION 3.1612. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, a general election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 3.1613. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3.1614. EFFECTIVE DATE OF THIS PART. This part takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this part takes effect September 1, 2001.

#### ARTICLE 4. WATER INFRASTRUCTURE FINANCING

SECTION 4.01. Chapter 15, Water Code, is amended by adding Subchapter O to read as follows:

##### *SUBCHAPTER O. WATER INFRASTRUCTURE FUND*

*Sec. 15.901. DEFINITIONS. In this subchapter:*

*(1) "Eligible political subdivision" means:*

*(A) a municipality;*

*(B) a county;*

*(C) a river authority or special law district that is listed in Section 9.010(b);*

*(D) a water improvement district;*

*(E) an irrigation district;*

*(F) a water control and improvement district; and*

*(G) a groundwater district with a groundwater management plan certified by the board under Section 36.1072.*

*(2) "Fund" means the water infrastructure fund.*

*(3) "Metropolitan statistical area" means an area so designated by the United States Office of Management and Budget.*

*(4) "Political subdivision bonds" means bonds or other obligations issued by a political subdivision to fund a project and purchased by the board from money in the fund.*

*(5) "Project" means any undertaking or work, including planning and design activities and work to obtain regulatory authority, to conserve, mitigate, convey, and develop water resources of the state, including any undertaking or work done outside the state that the board determines will result in water being available for use in or for the benefit of the state.*



*Sec. 15.902. FINDINGS. The legislature finds that:*

- (1) the creation of the fund and the administration of the fund by the board will encourage the conservation and development of the water resources of the state;*
- (2) the use of the fund is in furtherance of the public purpose of conserving and developing the water resources of the state; and*
- (3) the use of the fund for the purposes provided by this subchapter is for the benefit of both the state and the political subdivisions to which the board makes financial assistance available in accordance with this subchapter and constitutes a program under, and is in furtherance of the public purposes set forth in, Section 52-a, Article III, Texas Constitution.*

*Sec. 15.903. WATER INFRASTRUCTURE FUND. (a) The water infrastructure fund is a special account in the general revenue fund to be administered by the board under this subchapter and rules adopted by the board under this subchapter. Money in the fund may be used to pay for the implementation of water projects recommended through the state and regional water planning processes under Sections 16.051 and 16.053.*

*(b) The fund consists of:*

- (1) appropriations from the legislature;*
- (2) any other fees or sources of revenue that the legislature may dedicate for deposit to the fund;*
- (3) repayments of loans made from the fund;*
- (4) interest earned on money credited to the fund;*
- (5) depository interest allocable to the fund in the general revenue fund;*
- (6) money from gifts, grants, or donations to the fund;*
- (7) money from revenue bonds or other sources designated by the board; and*
- (8) proceeds from the sale of political subdivision bonds or obligations held in the fund and not otherwise pledged to the discharge, repayment, or redemption of revenue bonds or other bonds, the proceeds of which were placed in the fund.*

*Sec. 15.904. USE OF WATER INFRASTRUCTURE FUND. (a) The board may use the fund:*

- (1) to make loans to political subdivisions at or below market interest rates for projects;*
- (2) to make grants, low-interest loans, or zero interest loans to political subdivisions for projects to serve areas outside metropolitan statistical areas in order to ensure that the projects are implemented, or for projects to serve economically distressed areas;*
- (3) to make loans at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities with respect to a project;*
- (4) as a source of revenue or security for the payment of principal and interest on bonds issued by the board if the proceeds of the sale of the bonds will be deposited in the fund; and*
- (5) to pay the necessary and reasonable expenses of the board in administering the fund.*

*(b) Funding under Subsection (a)(2) or under Subsection (a)(3) may not exceed 10 percent of the amount of financial assistance budgeted by the board to be made available from the fund in a fiscal year.*

*(c) Principal and interest payments on loans made under Subsection (a)(3) may be deferred for a maximum of 10 years or until construction of the project is completed, whichever is earlier.*

*Sec. 15.905. APPROVAL OF APPLICATIONS. (a) On review and recommendation by the executive administrator, the board by resolution may approve an application if the board finds that:*

- (1) the application and the assistance applied for meet the requirements of this subchapter and board rules;*

*(2) the revenue or taxes, or both the revenue and taxes, pledged by the applicant will be sufficient to meet all the obligations assumed by the political subdivision; and*

*(3) the project will meet water needs in a manner consistent with the state and regional water plans as required by Section 16.053(j), unless otherwise specified by an act of the legislature.*

*(b) For an application under this subchapter, a program of water conservation through a more effective use of water shall be required in the same manner as for approval of an application for financial assistance under Section 15.106.*

*(c) The board may deliver funds for the part of a loan or grant for a project relating to surface water development, other than for planning and design costs, permitting costs, and other costs associated with federal and state regulatory activities with respect to a project, only if the executive administrator makes a written finding that the applicant:*

*(1) has the necessary water rights authorizing the applicant to appropriate and use the water that the project will provide, if the applicant is proposing surface water development; or*

*(2) has the right to use water that the project will provide, if the applicant is proposing groundwater development.*

*Sec. 15.906. APPLICABLE LAW. Subchapter E, Chapter 17, applies to financial assistance made available from the fund, except that the board may also execute contracts as necessary to evidence grant agreements.*

*Sec. 15.907. RULES. The board shall adopt rules necessary to carry out this subchapter, including rules establishing procedures for application for and for the award of financial assistance, for the investment of funds, and for the administration of the fund.*

*Sec. 15.908. SALE OF POLITICAL SUBDIVISION BONDS. (a) The board may sell or dispose of political subdivision bonds at the price and under the terms that the board determines to be reasonable.*

*(b) The board may sell political subdivision bonds without making a previous offer to the political subdivision that issued the bonds and without advertising, soliciting, or receiving bids for sale.*

*(c) Notwithstanding other provisions of this chapter, the board may sell to the Texas Water Resources Finance Authority any political subdivision bonds purchased with money in the fund and may apply the proceeds of a sale in the manner provided by this section.*

*(d) Proceeds from the sale of political subdivision bonds under this section shall be deposited in the fund for use as provided by Section 15.904.*

*(e) As part of a sales agreement with the Texas Water Resources Finance Authority, the board by contract may agree to perform the functions required to ensure that the political subdivision pays the debt service on political subdivision bonds sold and observes the conditions and requirements stated in those bonds.*

*(f) The board may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.*

*Sec. 15.909. FUNDING FOR LOCAL ECONOMIC DEVELOPMENT. (a) The board may use the fund to provide financial assistance to an eligible political subdivision to enable the political subdivision to fund loans and grants for projects that conserve and develop the water resources of the political subdivision for the ultimate benefit of the public, and that develop and diversify its local economy, consistent with the terms and conditions set forth in a program adopted by the governing body of the political subdivision under authority granted by Section 15.910.*

*(b) The board may not purchase political subdivision bonds issued for the purposes described by Subsection (a) that are secured in whole or in part by a pledge of ad valorem taxes unless the political subdivision submits evidence satisfactory to the board that the issuance of the*

bonds has been approved by the citizens of the political subdivision voting at an election held for the purposes described in Section 15.910.

*Sec. 15.910. AUTHORITY TO ESTABLISH ECONOMIC DEVELOPMENT PROGRAMS.*

(a) *An eligible political subdivision may establish economic development programs and make loans and grants of public funds to assist in providing projects within the political subdivision that conserve and develop the water resources of the political subdivision for the ultimate benefit of the public. The authority granted to a political subdivision to make loans and grants in accordance with this section constitutes a program in furtherance of the public purposes provided by Section 52-a, Article III, Texas Constitution.*

(b) *Financial assistance received from the fund may be used by an eligible political subdivision to make loans or grants to persons for projects that the political subdivision finds will conserve and develop the water resources of the political subdivision for the ultimate benefit of the public and assist in diversifying and developing the economy of the political subdivision and the state.*

(c) *In exercising the authority granted by this section, the governing body of an eligible political subdivision may determine the terms and conditions governing the loan or grant of money and determine whether to approve an agreement with a person who receives a loan or grant.*

*Sec. 15.911. An eligible political subdivision may not sell or incur obligations to fund an economic development program established under authority granted by Section 15.910 that are payable in whole or in part from ad valorem taxes unless the residents of the political subdivision, voting at an election held for the purpose, approve the issuance of obligations to fund an economic development program for the provision of loans or grants to persons to construct projects that will conserve and develop the water resources of the political subdivision for the ultimate benefit of the public and assist in developing and diversifying the local economy.*

SECTION 4.02. Chapter 15, Water Code, is amended by adding Subchapter P to read as follows:

**SUBCHAPTER P. RURAL WATER ASSISTANCE FUND**

*Sec. 15.951. PURPOSE. The legislature finds that the rural areas of the state, characterized by small populations extended over disproportionately large service areas, require a means of financing water projects in addition to those established by other provisions of this chapter.*

*Sec. 15.952. DEFINITIONS. In this subchapter:*

(1) *"District" means a conservation or reclamation district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.*

(2) *"Federal agency" means an agency or other entity of the United States Department of Agriculture or an agency or entity that is acting through or on behalf of that department.*

(3) *"Fund" means the rural water assistance fund.*

(4) *"Rural political subdivision" means:*

(A) *a nonprofit water supply or sewer service corporation, district, or municipality with a service area of 10,000 or less in population or that otherwise qualifies for financing from a federal agency; or*

(B) *a county in which no urban area exceeds 50,000 in population.*

(5) *"State agency" means an agency or other entity of the state, including the Department of Agriculture and the Texas Department of Housing and Community Affairs and any agency or authority that is acting through or on behalf of the Department of Agriculture or the Texas Department of Housing and Community Affairs.*

*Sec. 15.953. FUND. The rural water assistance fund is a special account in the general revenue fund. The fund consists of:*

- (1) money directly appropriated to the board;*
- (2) repayment of principal and interest from loans made from the fund not otherwise needed as a source of revenue pursuant to Section 17.9615(b);*
- (3) money transferred by the board from any sources available; and*
- (4) interest earned on the investment of money in the fund and depository interest allocable to the fund in the general revenue fund.*

*Sec. 15.954. USE OF FUND. (a) The fund may be used to provide low-interest loans to rural political subdivisions for water or water-related projects, including the purchase of well fields, the purchase or lease of rights to produce groundwater, and interim financing of construction projects.*

*(b) The fund may be used to enable a rural political subdivision to obtain water supplied by larger political subdivisions or to finance the consolidation or regionalizing of neighboring political subdivisions, or both.*

*(c) The fund may be used to finance an outreach and technical assistance program to assist rural political subdivisions in obtaining assistance through the fund. The board may use money in the fund to contract for such outreach and technical assistance.*

*(d) The fund may be used to buy down interest rates on loans.*

*(e) A rural political subdivision may enter into an agreement with a federal agency or a state agency to submit a joint application for financial assistance under this subchapter.*

*(f) A nonprofit water supply or sewer service corporation is exempt from payment of any sales tax that may be incurred under other law or ordinance for any project financed by the fund.*

*(g) The fund may be used as a source of revenue for the payment of principal and interest on water financial assistance bonds issued by the board if the proceeds of the sale of these bonds will be deposited into the rural water assistance fund.*

*Sec. 15.955. FINANCIAL ASSISTANCE. (a) The board shall adopt rules necessary to administer this subchapter, including rules establishing procedures for the application for and award of loans, the distribution of loans, the investment of funds, and the administration of loans and the fund.*

*(b) The board may not release from the fund money for the construction phase of parts of projects proposing surface water or groundwater development until the executive administrator makes a written finding that a rural political subdivision:*

*(1) has the necessary water right authorizing it to appropriate and use the water that the project will provide, if the rural political subdivision is proposing surface water development; or*

*(2) has the right to use water that the project will provide, if the rural political subdivision is proposing groundwater development.*

*(c) In passing on an application from a rural political subdivision for financial assistance, the board shall consider:*

*(1) the needs of the area to be served by the project, the benefit of the project to the area, the relationship of the project to the overall state water needs, and the relationship of the project to the state water plan; and*

*(2) the availability of revenue to the rural political subdivision from all sources for the ultimate repayment of the cost of the water supply project, including all interest.*

*(d) The board by resolution may approve an application if, after considering the factors listed in Subsection (c) and other relevant factors, the board finds that:*

*(1) the public interest is served by state assistance for the project; and*

*(2) the revenue or taxes pledged by the rural political subdivision will be sufficient to meet all the obligations assumed by the rural political subdivision during the succeeding period of not more than 50 years.*

*(e) A program of water conservation for the more efficient use of water shall be required in the same manner as is required for approval of an application for financial assistance under Section 15.106.*

*(f) Sections 17.183-17.187 apply to the construction of projects funded pursuant to this subchapter.*

SECTION 4.03. Subsection (j), Section 5.235, Water Code, is amended to read as follows:

(j) The fee for other uses of water not specifically named in this section is \$1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. *This fee is waived for applications for instream-use water rights deposited into the Texas Water Trust.*

SECTION 4.04. Section 15.001, Water Code, is amended by adding Subdivision (12) to read as follows:

*(12) "Regionalization" means development of a water supply or wastewater collection and treatment system that incorporates multiple service areas into an areawide service facility or any such system that serves an area that includes more than a single county, city, special district, or other political subdivision of the state.*

SECTION 4.05. Subsection (a), Section 15.002, Water Code, is amended to read as follows:

(a) The legislature finds that it is in the public interest and to the benefit of the general public of the state to encourage and to assist in the planning and construction of projects to develop and conserve the storm water and floodwater as well as the ordinary flows of the rivers and streams of the state, to maintain and enhance the quality of the water of the state, to provide protection to the state's citizens from the floodwater of the rivers and streams of the state, to provide drainage, subsidence control, public beach nourishment, recharge, chloride control, *brush control, weather modification, regionalization, and desalination* [~~desalinization~~], to provide for the management of aquatic vegetation, and other purposes as provided by law or board rule.

SECTION 4.06. Subsection (b), Section 15.011, Water Code, is amended to read as follows:

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C [~~of this chapter~~], the storage acquisition fund created under Subchapter E [~~of this chapter~~], the research and planning fund created under Subchapter F [~~of this chapter~~], the hydrographic survey account created under Subchapter M [~~of this chapter~~], provided the hydrographic survey account transfer does not exceed \$425,000, [~~and~~] the aquatic vegetation management fund created under Subchapter N, *and the rural water assistance fund created under Subchapter P* [~~of this chapter~~].

SECTION 4.07. Subsections (a) and (b), Section 15.102, Water Code, are amended to read as follows:

(a) The loan fund may be used by the board to provide loans of financial assistance to political subdivisions, federal agencies, or both political subdivisions and federal agencies acting jointly for the construction, acquisition, improvement, or enlargement of projects involving water conservation, water development, or water quality enhancement, providing nonstructural and structural flood control, or drainage, project recreation lands and revenue-generating recreational improvements within any watershed, or providing recharge, chloride control, subsidence control, *brush control, weather modification, regionalization, or desalination* [~~desalinization~~] as provided by legislative appropriations, this chapter, and the board rules.

(b) The loan fund may also be used by the board to provide grants for:

(1) projects that include supplying water and wastewater services in economically distressed areas, including projects involving retail distribution of those services; *and*

(2) *desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.*

SECTION 4.08. Section 15.105, Water Code, is amended to read as follows:

Sec. 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. (a) In passing on an application for financial assistance from the loan fund, the board shall consider but is not limited to:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;
- (2) the availability of revenue to the applicant from all sources for the ultimate repayment of the cost of the project, including all interest;
- (3) the relationship of the project to overall statewide needs;
- (4) the ability of the applicant to finance the project without state assistance; ~~and~~
- (5) for applications for grants for economically distressed areas, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services; *and*
- (6) *for applications for grants under Section 15.102(b)(2), the ability of the applicant to construct the project without the grant and the benefits of the project to water and wastewater needs of the state.*

(b) *The board by rule shall further define eligibility for grants under this subchapter.*

SECTION 4.09. Subsection (a), Section 15.106, Water Code, is amended to read as follows:

(a) The board, by resolution, may approve an application for *financial assistance* ~~[a loan]~~ if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project; and
- (2) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

SECTION 4.10. Section 15.107, Water Code, is amended to read as follows:

Sec. 15.107. METHOD OF MAKING ~~[LOANS OF]~~ FINANCIAL ASSISTANCE AVAILABLE. (a) The board may make financial assistance available to successful applicants in any manner that it considers economically feasible including:

- (1) contracts or agreements with a political subdivision for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by the political subdivision;
- (2) contracts or agreements with a political subdivision for the purpose of providing the political subdivision's share of any cost-sharing required as a participant in or local sponsor of any federal project; ~~[or]~~
- (3) purchase of the bonds or other obligations of a political subdivision for the purpose of completely or partially financing the project for which the application is being submitted; *or*
- (4) *contracts or agreements for the receipt of funds and performance of obligations in relation to any grant of funds provided by the board.*

(b) Contracts or agreements entered into under Subdivision (1) of Subsection (a) of this section may cover all or any part of the debt service requirements in a given year and may cover debt service requirements in as many years of an issue as the board considers appropriate.

(c) In a determination on a loan for financial assistance, the board may approve interest deferral or the capitalization of interest costs and may approve periods of repayment for the loans of up to 50 years.

SECTION 4.11. Section 15.434, Water Code, is amended to read as follows:

Sec. 15.434. USE OF MONEY IN FUND. Money deposited to the credit of the agricultural soil and water conservation fund, on appropriation by the legislature to the board, the

Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Experiment Station, the Texas Agricultural Extension Service, public colleges and universities, and other state agencies shall be used for the following purposes:

- (1) agricultural water conservation technical assistance programs;
- (2) agricultural water conservation, education, and demonstration programs;
- (3) purchase of equipment, including demonstration and educational equipment;
- (4) grants made to *groundwater* [~~underground water~~] conservation districts *and political subdivisions* for the purchase of equipment under programs established by Subchapter H of this chapter;
- (5) research in water utilization and conservation including artificial recharge and secondary recovery of *groundwater* [~~underground water~~];
- (6) *desalination* [~~desalinization~~];
- (7) weather modification;
- (8) technical assistance programs for developing on-farm soil and water conservation plans developed jointly by landowners and operators and local soil and water conservation districts, as provided by Subchapter H, Chapter 201, Agriculture Code;
- (9) research and demonstration relating to the production of native and low-water-use plants and water-efficient crops;
- (10) a pilot program for low-interest loans for the purchase of agricultural water conservation systems established by Subchapter I of this chapter; [~~and~~]
- (11) research, demonstration, and education relating to brush control; *and*
- (12) *regionalization designed to promote agricultural water conservation.*

SECTION 4.12. Section 15.471, Water Code, is amended to read as follows:

Sec. 15.471. GRANTS; PURPOSES. The board may make grants of money to *groundwater* [~~underground water~~] conservation districts, *to political subdivisions*, and to other districts created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution for purchasing equipment required for:

- (1) measurement and evaluation of irrigation systems and agricultural water conservation practices on irrigated land, dryland, and rangeland;
- (2) demonstration of efficient irrigation systems and agricultural water conservation practices on irrigated land, dryland, and rangeland;
- (3) testing and evaluation of water quality and the suitability of water from groundwater or surface water resources for irrigation, rural domestic use, livestock, or agricultural industry use;
- (4) demonstration of efficient or sound chemical application and evaluation or demonstration of systems which will prevent contamination of groundwater and surface water from chemicals and other substances used in agriculture; *or*
- (5) *measurement and data collection related to the conservation of groundwater resources.*

SECTION 4.13. Section 15.602, Water Code, is amended by adding a new Subdivision (8) and redesignating existing Subdivisions (8) through (14) as Subdivisions (9) through (15) to read as follows:

- (8) *"Person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state or any interstate body, as defined by Section 502 of the federal act, including a political subdivision as defined by this subchapter, if the person is eligible for financial assistance under federal law establishing the revolving fund.*
- (9) *"Political subdivision" means a municipality, intermunicipal, interstate, or state agency, any other public entity eligible for assistance under this subchapter, or a nonprofit water supply corporation created and operating under Chapter 67, if such entity is eligible for*

financial assistance under federal law establishing the state revolving fund or an additional state revolving fund.

(10) [(9)] "Public water system" means a system that is owned by any person and that meets the definition of public water system in the Safe Drinking Water Act.

(11) [(10)] "Public works" means any project to acquire, construct, improve, repair, or otherwise provide any buildings, structures, facilities, equipment, or other real or personal property or improvements designed for public use, protection, or enjoyment undertaken by a political subdivision and paid for, in whole or in part, out of public funds.

(12) [(11)] "Revolving fund" means the state water pollution control revolving fund.

(13) [(12)] "Safe Drinking Water Act" means Title XIV of the federal Public Health Service Act, commonly known as the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f et seq.).

(14) [(13)] "Safe drinking water revolving fund" means the fund established by the board as an additional state revolving fund to provide financial assistance in accordance with the federal program established pursuant to the provisions of the Safe Drinking Water Act.

(15) [(14)] "Treatment works" has the meaning established by the federal act and the eligible components of the management programs established by Sections 319 and 320 of the federal act.

SECTION 4.14. Subsection (a), Section 15.603, Water Code, is amended to read as follows:

(a) The revolving fund is held separately from other funds by the board outside the State Treasury to provide financial assistance to political subdivisions for construction of treatment works *and to persons for nonpoint source pollution control and estuary management projects.*

SECTION 4.15. Subsection (a), Section 15.604, Water Code, is amended to read as follows:

(a) The board may use the revolving fund for financial assistance only as provided by the federal act:

(1) to make loans, on the conditions that:

(A) those loans are made at or below market interest rates, including interest-free loans, at terms not to exceed 20 years;

(B) principal and interest payments will begin not later than one year after completion of any treatment works and all loans will be fully amortized not later than 20 years after completion of the treatment works;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the revolving fund will be credited with all payments of principal of and interest on all loans;

(2) to buy or refinance the debt obligation of political subdivisions at or below market rates if the debt obligations were incurred after March 7, 1985;

(3) to guarantee or purchase insurance for political subdivisions if the guarantee or insurance would improve access to market credit or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the state if the proceeds of the sale of those bonds will be deposited in the revolving fund;

(5) to provide loan guarantees to similar revolving funds established by municipalities or intermunicipal agencies;

(6) to earn interest on revolving fund accounts;

(7) for the reasonable costs of administering the revolving fund and conducting activities provided for by Title VI of the federal act, except that those amounts may not exceed the amount authorized under Title VI of the federal act; ~~and~~



(8) to provide financial assistance to persons for a nonpoint source pollution control project under Section 319 of the federal act or for an estuary management project under Section 320 of the federal act; and

(9) for other purposes as provided by the federal act.

SECTION 4.16. Section 15.607, Water Code, is amended to read as follows:

Sec. 15.607. APPROVAL OF APPLICATION. On review of recommendations by the executive administrator, the board by resolution may approve an application if the board finds that in its opinion the revenue or taxes or both revenue and taxes pledged by the applicant will be sufficient to meet all the obligations assumed by the applicant ~~[political subdivision]~~ and that the application and assistance applied for meet the requirements of the federal act and state law. A program of water conservation for the more effective use of water shall be required in the same manner as required for approval of an application for financial assistance under Section 15.106 of this code.

SECTION 4.17. Subchapter C, Chapter 16, Water Code, is amended by adding Section 16.059 to read as follows:

Sec. 16.059. COLLECTION OF INSTREAM FLOW DATA; CONDUCT OF STUDIES. (a) The Parks and Wildlife Department, the commission, and the board, in cooperation with other appropriate governmental agencies, shall jointly establish and continuously maintain an instream flow data collection and evaluation program and shall conduct studies and analyses to determine appropriate methodologies for determining flow conditions in the state's rivers and streams necessary to support a sound ecological environment. Any stream that consists only of floodwaters and is dry more than 75 percent of the year is exempt from this section.

(b) The Parks and Wildlife Department, the commission, and the board shall each designate an employee to share equally in the oversight of the program studies. Other responsibilities shall be divided between the Parks and Wildlife Department, the commission, and the board to maximize present in-house capabilities of personnel and equipment and to minimize costs to the state.

(c) The Parks and Wildlife Department, the commission, and the board shall each have reasonable access to all data, studies, analyses, information, and reports produced by the other agencies.

(d) The priority studies shall be completed not later than December 31, 2010. The Parks and Wildlife Department, the commission, and the board shall establish a work plan that prioritizes the studies and that sets interim deadlines providing for publication of flow determinations for individual rivers and streams on a reasonably consistent basis throughout the prescribed study period. Before publication, completed studies shall be submitted for comment to the commission, the board, and the Parks and Wildlife Department.

(e) Results of studies completed under this section shall be considered by the commission in its review of any management plan, water right, or interbasin transfer.

(f) The board may authorize the use of money from the research and planning fund established under Chapter 15 to accomplish the purposes of this section. The money shall be used by the board in cooperation with the commission and the Parks and Wildlife Department for interagency contracts with cooperating agencies and universities and contracts with private sector establishments, as necessary, to accomplish the purposes of this section.

SECTION 4.18. Subsection (c), Section 17.853, Water Code, is amended to read as follows:

(c) The board may use the fund only:

(1) to provide state matching funds for federal funds provided to the state water pollution control revolving fund or to any additional state revolving fund created under Subchapter J, Chapter 15;

(2) to provide financial assistance from the proceeds of taxable bond issues to water supply corporations organized under Chapter 67, and other participants;

(3) to provide financial assistance to participants for the construction of water supply projects and treatment works;

(4) to provide financial assistance for an interim construction period to participants for projects for which the board will provide long-term financing through the water development fund; ~~and~~

(5) to provide financial assistance for water supply and sewer service projects in economically distressed areas as provided by Subchapter K, Chapter 17, to the extent the board can make that assistance without adversely affecting the current or future integrity of the fund or of any other financial assistance program of the board; *and*

(6) *to provide funds to the water infrastructure fund created under Section 15.903.*

SECTION 4.19. Subdivisions (2) and (6), Section 17.871, Water Code, are amended to read as follows:

(2) "Borrower district" means a *political subdivision, including a district or authority created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, that receives or is eligible to receive a conservation loan from the board for a purpose described by Section 17.895 or 17.8955* ~~[improvement to district facilities]~~.

(6) "Lender district" means a *political subdivision, including a soil and water conservation district under Chapter 201, Agriculture Code, a groundwater* ~~[an underground water]~~ *conservation district created under Article XVI, Section 59, of the Texas Constitution, or a district or authority created under Article III, Section 52(b)(1), or Article XVI, Section 59, of the Texas Constitution authorized to supply water for irrigation purposes, that is eligible to receive or that receives a loan from the board for the purpose of making conservation loans to individual borrowers.*

SECTION 4.20. Section 17.895, Water Code, is amended to read as follows:

Sec. 17.895. CONSERVATION LOANS. (a) *This section applies only to a conservation loan from a lender district that is:*

(1) *a soil and water conservation district under Chapter 201, Agriculture Code;*

(2) *a groundwater conservation district created under Section 59, Article XVI, Texas Constitution; or*

(3) *a district or authority created under Section 52(b)(1), Article III, or Section 59, Article XVI, Texas Constitution.*

(b) The board or a lender district ~~[districts]~~ may make conservation loans for capital equipment or materials, labor, preparation costs, and installation costs:

(1) to improve water use efficiency of water delivery and application on existing irrigation systems;

(2) for preparing irrigated land to be converted to dryland conditions; *and*

(3) for preparing dryland for more efficient use of natural precipitation;

~~[(4) for preparing and maintaining land to be used for brush control activities, including but not limited to activities conducted pursuant to Chapter 203, Agriculture Code; or~~

~~[(5) for implementing precipitation enhancement activities in areas of the state where such activities would be, in the board's judgment, most effective].~~

(c) ~~[(b)]~~ Conservation loans for the purposes listed in Subsection (b) ~~[(a)]~~ may be made by lender districts to individual borrowers for use on private property or by the board to borrower districts ~~[for use on district facilities]~~.

(d) ~~[(e)]~~ The board may make conservation loans to borrower districts for the cost of purchasing and installing devices, on public or private property, designed to indicate the amount of water withdrawn for irrigation purposes.

(e) ~~[(d)]~~ For purposes of this section, the board or lender districts may seek the advice of the Department of Agriculture regarding the feasibility of a project for which a conservation loan is sought.

SECTION 4.21. Subchapter J, Chapter 17, Water Code, is amended by adding Section 17.8955 to read as follows:

*Sec. 17.8955. CONSERVATION LOANS FOR BRUSH CONTROL AND PRECIPITATION ENHANCEMENT. (a) The board or a lender district may make a conservation loan for capital equipment or materials, labor, preparation costs, and installation costs for:*

*(1) preparing and maintaining land to be used for brush control activities, including activities conducted under Chapter 203, Agriculture Code; or*

*(2) implementing precipitation enhancement activities in areas of the state where those activities would be, in the board's judgment, most effective.*

*(b) A conservation loan for a purpose listed in Subsection (a) may be made by a lender district to an individual borrower for use on private property or by the board to a borrower district.*

SECTION 4.22. Subchapter L, Chapter 17, Water Code, is amended by adding Section 17.9615 to read as follows:

*Sec. 17.9615. TRANSFERS TO RURAL WATER ASSISTANCE FUND. (a) The board may direct the comptroller to transfer amounts from the financial assistance account to the rural water assistance fund to provide financial assistance under this subchapter for the purposes provided in Section 15.954.*

*(b) The board shall use the rural water assistance fund as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the rural water assistance fund and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.*

SECTION 4.23. Subchapter L, Chapter 17, Water Code, is amended by adding Section 17.9616 to read as follows:

*Sec. 17.9616. TRANSFER TO WATER INFRASTRUCTURE FUND. (a) The board may direct the comptroller to transfer amounts from the financial assistance account to the water infrastructure fund to provide financial assistance under this subchapter for the purposes provided in Section 15.904.*

*(b) The board shall use the water infrastructure fund as a source of revenue to be deposited in accordance with this subchapter for the payment of principal and interest on water financial assistance bonds issued by the board, the proceeds of which are to be deposited into the water infrastructure fund and to be used to make payments under a bond enhancement agreement with respect to principal or interest on the water financial assistance bonds.*

SECTION 4.24. Section 11.32, Tax Code, is amended to read as follows:

*Sec. 11.32. CERTAIN WATER CONSERVATION INITIATIVES. The governing body of a taxing unit by official action of the governing body adopted in the manner required by law for official actions may exempt from taxation part or all of the assessed value of property on which approved water conservation initiatives, desalination projects, or brush control initiatives have been implemented. For purposes of this section, approved water conservation, desalination, and brush control initiatives shall be designated pursuant to an ordinance or other law adopted by the governing unit.*

SECTION 4.25. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.355 to read as follows:

*Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:*

*(1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment, services, or supplies used to reduce or eliminate water use;*

*(2) equipment, services, or supplies used for desalination of surface water or groundwater;*

*(3) equipment, services, or supplies used for brush control designed to enhance the availability of water;*

*(4) equipment, services, or supplies used for precipitation enhancement;*

*(5) equipment, services, or supplies used to construct or operate a water or wastewater system or component of a system sponsored by a political subdivision, as defined by Section 15.001, Water Code, which is certified by the Texas Natural Resource Conservation Commission as providing regional water or wastewater service; and*

*(6) equipment, services, or supplies used to construct or operate a water supply or wastewater system by a private entity as a public-private partnership, as certified by the political subdivision, as defined by Section 15.001, Water Code, that is a party to the project.*

#### ARTICLE 5. JOINT COMMITTEE ON WATER RESOURCES

SECTION 5.01. In this article, "committee" means the joint committee on water resources.

SECTION 5.02. The committee shall conduct an interim study and make recommendations regarding:

- (1) increasing the efficient use of existing water resources;
- (2) developing sufficient long-term water financing strategies;
- (3) improving existing water conveyance systems;
- (4) water marketing;
- (5) determining the appropriate role of environmental and wildlife concerns in water permitting and water development; and
- (6) protection of the natural condition of beds and banks of the state-owned watercourses.

SECTION 5.03. The committee is composed of six members as follows:

- (1) the chair of the Senate Committee on Natural Resources and the chair of the House Committee on Natural Resources;
- (2) two members of the senate appointed by the lieutenant governor; and
- (3) two members of the house of representatives appointed by the speaker of the house of representatives.

SECTION 5.04. The committee shall:

- (1) meet at least annually with the Texas Natural Resource Conservation Commission and the Texas Water Development Board; and
- (2) receive information relating to:
  - (A) encouraging the effective development of water marketing and water movement;
  - (B) prioritizing the use of state funds for financing the development and conservation of water resources; and
  - (C) identifying reasonable mechanisms, including measures for encouraging donation of water rights, for protecting instream uses.

SECTION 5.05. Not later than November 1, 2002, the committee shall make a final report to the lieutenant governor, the speaker of the house of representatives, and the 78th Legislature evaluating the issues described in Section 5.02 of this article.

SECTION 5.06. The committee has the authority necessary to perform its duties and, in connection with those duties, may call and hold hearings.

SECTION 5.07. The committee may request the assistance of state agencies, departments, or offices to carry out its duties.

SECTION 5.08. The Senate Committee on Natural Resources and the House Committee on Natural Resources shall provide staff to the committee.

SECTION 5.09. The committee shall submit a proposed budget to the appropriate committee on administration in each house of the legislature. The administration committees shall jointly approve the committee budget in an amount appropriate for the committee to accomplish its duties under this article.

SECTION 5.10. The committee may travel around the state and hold hearings or public meetings as needed to fulfill its duties under this article.

SECTION 5.11. This article expires and the committee is abolished on January 1, 2003.

#### ARTICLE 6. RULEMAKING PROCEDURES FOR THE EDWARDS AQUIFER AUTHORITY

SECTION 6.01. Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.115 to read as follows:

*Sec. 1.115. RULEMAKING PROCEDURES. (a) The authority shall comply with the procedures provided by this section in adopting rules.*

*(b) The authority shall provide, by using the United States mail, notice of a proposed rule to all applicants and permit holders. The authority shall publish in a newspaper of general circulation within the boundaries of the authority notice of a public hearing on a proposed rule at least 14 days before the date of the public hearing on the rule. The notice must include:*

- (1) the date, time, and place of the public hearing;*
- (2) a statement of the general subject matter of the proposed rule;*
- (3) the procedures for obtaining copies of the proposed rule and for submitting comments; and*
- (4) the deadline for submitting comments.*

*(c) The board shall allow at least 45 days for comment on a proposed rule, other than an emergency rule, before the board adopts the rule. The board shall consider all written comments and shall, in the order adopting the rule, state the reasons and justification for the rule and the authority's responses to the written comments.*

*(d) The meeting at which a proposed rule is adopted as a final rule must be an open meeting, and the public must be allowed to make comments on the proposed rule and the agency responses. A proposed rule becomes final and effective on the 10th day after the date the rule is adopted by the board.*

*(e) Notwithstanding Subsections (b)-(d) of this section, the board may adopt emergency rules in anticipation of imminent harm to human health, safety, or welfare, or if compliance with the procedures provided in Subsections (b)-(d) of this section would prevent an effective response to emergency aquifer or springflow conditions. The board may adopt emergency rules five days after providing public notice. Emergency rules are effective immediately on adoption for a period of 120 days and may be renewed once for not more than 60 days.*

*(f) Subsections (b)-(d) of this section do not apply to the adoption of bylaws or internal procedures of the board and authority.*

SECTION 6.02. Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsections (e) and (f) to read as follows:

*(e) The authority shall conduct a contested case hearing on a permit application if a person with a personal justiciable interest related to the application requests a hearing on the application.*

*(f) The authority shall adopt rules establishing procedures for contested case hearings consistent with Subchapters C, D, and F, Chapter 2001, Government Code.*

SECTION 6.03. Subsection (h), Section 1.11, and Subsection (e), Section 1.41, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION 6.04. A rule adopted by the Edwards Aquifer Authority before the effective date of this Act remains in effect until repealed, amended, or readopted. Nothing contained in this article shall be construed as repealing the applicability of the open meetings law, Chapter 551, Government Code, or the public information law, Chapter 552, Government Code, to the Edwards Aquifer Authority.

SECTION 6.05. The rules in 31 T.A.C. Part 20 shall continue in effect until replaced by rules adopted pursuant to this article. The secretary of state shall delete 31 T.A.C. Part 20.

#### ARTICLE 7. LIMITED LIABILITY FOR AQUATIC HERBICIDE APPLICATION

SECTION 7.01. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.050 to read as follows:

*Sec. 26.050. LIMITED LIABILITY FOR AQUATIC HERBICIDE APPLICATION. (a) In this section, "commercially licensed aquatic herbicide applicator" means a person who holds a commercial applicator license issued by the Department of Agriculture under Chapter 76, Agriculture Code, to apply aquatic herbicides.*

*(b) Except as provided by Chapter 12, Parks and Wildlife Code, a commercially licensed aquatic herbicide applicator working under contract with a river authority organized pursuant to Section 59, Article XVI, Texas Constitution, is not liable for damages in excess of \$2 million for each occurrence of personal injury, property damage, or death resulting directly or indirectly from the application of aquatic herbicide in compliance with such contract, applicable law, and the license terms or permit.*

*(c) The control and elimination of noxious weeds, grasses, and vegetation in the rivers, tributaries, impoundments, and reservoirs of the state through the application by river authorities or their agents, employees, or contractors, in compliance with applicable law, licenses, and permits, of aquatic herbicides are essential governmental functions, and except to the extent provided in Chapter 101, Civil Practice and Remedies Code, nothing herein shall be deemed or construed to waive, limit, or restrict the governmental immunity of river authorities in the performance of such governmental functions.*

*(d) The limited liability provided by this section does not apply to a commercially licensed aquatic herbicide applicator if the applicator uses the wrong aquatic herbicide, fails to follow manufacturers' warnings, instructions, and directions for the application of the aquatic herbicide, fails to follow the directions of the river authority concerning the application of the aquatic herbicide, or applies the aquatic herbicide in a manner that violates federal or state law, rules, or regulations.*

#### ARTICLE 8. CONCENTRATED ANIMAL FEEDING OPERATIONS

SECTION 8.01. Section 26.0286, Water Code, is amended to read as follows:

Sec. 26.0286. PROCEDURES APPLICABLE TO PERMITS FOR CERTAIN CONCENTRATED ANIMAL FEEDING OPERATIONS. (a) In this section:

*(1) "Sole-source[~~,-sole source~~] surface drinking water supply" means a body of surface water that[~~:~~*

*[(+)] is designated as a sole-source surface drinking [public] water supply in rules adopted by the commission [under Section 26.023; and*

*[(2) is the single source of supply of a public water supply system, exclusive of emergency water interconnections].*

*(2) "Protection zone" means an area so designated by commission rule under Subsection (c).*

(b) The commission shall process an application for authorization to construct or operate a concentrated animal feeding operation as a specific permit under Section 26.028 subject to the

procedures provided by Subchapter M, Chapter 5, if, *on the date the commission determines that the application is administratively complete, any part of a pen, lot, pond, or other type of control or retention facility or structure of the concentrated animal feeding operation is located or proposed to be located within the protection zone of a sole-source surface drinking water supply. For the purposes of this subsection, a land application area is not considered a control or retention facility*[:

~~[(1) in the watershed of a sole-source surface drinking water supply; and~~

~~[(2) sufficiently close, as determined by the commission by rule, to an intake of a public water supply system in the sole-source surface drinking water supply that contaminants discharged from the concentrated animal feeding operation could potentially affect the public drinking water supply].~~

*(c) For the purposes of this section only, the commission by rule shall designate a surface water body as a sole-source surface drinking water supply if that surface water body is identified as a public water supply in rules adopted by the commission under Section 26.023 and is the sole source of supply of a public water supply system, exclusive of emergency water connections. At the same time, the commission shall designate as a protection zone any area within the watershed of a sole-source surface drinking water supply that is:*

*(1) within two miles of the normal pool elevation of a body of surface water that is a sole-source surface drinking water supply;*

*(2) within two miles of that part of a perennial stream that is:*

*(A) a tributary of a sole-source surface drinking water supply; and*

*(B) within three linear miles upstream of the normal pool elevation of a sole-source surface drinking water supply; or*

*(3) within two miles of that part of a stream that is a sole-source surface drinking water supply, extending three linear miles upstream from the water supply intake.*

SECTION 8.02. Not later than the 45th day after the effective date of this Act, the Texas Natural Resource Conservation Commission by order shall identify surface water bodies that are considered "sole-source surface drinking water supplies" for purposes of Subsection (b), Section 26.0286, Water Code, as amended by this Act, and shall designate the protection zones for those identified water bodies. The order expires on the date on which the commission adopts final rules under Subsection (c), Section 26.0286, Water Code, as added by this Act.

## ARTICLE 9. REVOCATION OF CERTIFICATE OF PUBLIC UTILITY

SECTION 9.01. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2541 to read as follows:

*Sec. 13.2541. REVOCATION OF CERTIFICATE WHEN SERVICE PROVIDED TO A MUNICIPALITY. (a) This section applies only to a municipality with a population of more than 1.3 million.*

*(b) On request of a municipality served by a public utility, the commission at any time after notice and hearing may revoke the public utility's certificate of public convenience and necessity if it finds that the public utility:*

*(1) has never provided, is no longer providing, or has failed to provide continuous and adequate service in the municipality requesting the revocation; or*

*(2) has been grossly or continuously mismanaged or has grossly or continuously not complied with this chapter, commission rules, or commission orders.*

*(c) If the certificate of a public utility is revoked under Subsection (b), the municipality that requested the revocation shall operate the decertified public utility for an interim period prescribed by commission rule and shall request commission approval to acquire the decertified public utility's facilities and to transfer the decertified public utility's certificate of convenience*

and necessity to the municipality. The municipality must apply in accordance with Subchapter H.

(d) *The compensation paid to the decertified public utility for its facilities shall be determined by a qualified individual or firm serving as independent appraiser agreed upon by the decertified public utility and the municipality. The determination of compensation by the independent appraiser shall be binding on the commission. The municipality shall pay the costs of the independent appraiser. For the purpose of implementing this section, the value of real property shall be determined according to the standards prescribed by Chapter 21, Property Code, governing actions in eminent domain.*

(e) *The commission shall determine whether the municipality shall pay the compensation in a lump sum or over a specified period.*

#### ARTICLE 10. WATER UTILITY SYSTEMS

SECTION 10.01. Section 13.137, Water Code, is amended to read as follows:

Sec. 13.137. OFFICE AND OTHER BUSINESS LOCATIONS OF UTILITY; RECORDS; REMOVAL FROM STATE. (a) Every utility shall:

(1) *make available and notify its customers of a business location where its customers may make payments to prevent disconnection of or to restore service:*

(A) *in each county in which the utility provides service; or*

(B) *not more than 20 miles from the residence of any residential customer if there is no location to receive payments in the county; and*

(2) *have an office in a county of this state or in the immediate area in which its property or some part of its property is located in which it shall keep all books, accounts, records, and memoranda required by the commission to be kept in this state.*

(b) *The commission by rule may provide for waiving the requirements of Subsection (a)(1) for a utility for which meeting those requirements would cause a rate increase or otherwise harm or inconvenience customers. The rules must provide for an additional 14 days to be given for a customer to pay before a utility that is granted a waiver may disconnect service for late payment.*

(c) *Books, accounts, records, or memoranda required by the regulatory authority to be kept in the state may not be removed from the state, except on conditions prescribed by the commission.*

SECTION 10.02. Section 13.144, Water Code, is amended to read as follows:

Sec. 13.144. NOTICE OF WHOLESALE WATER SUPPLY CONTRACT. A district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a retail public utility, a wholesale water service, or other person providing a retail public utility with a wholesale water supply shall provide the commission with a certified copy of any wholesale water supply contract with a retail public utility within 30 days after the date of the execution of the contract. The submission must include the amount of water being supplied, term of the contract, consideration being given for the water, purpose of use, location of use, source of supply, point of delivery, limitations on the reuse of water, *a disclosure of any affiliated interest between the parties to the contract*, and any other condition or agreement relating to the contract.

SECTION 10.03. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.145 to read as follows:

Sec. 13.145. MULTIPLE SYSTEMS CONSOLIDATED UNDER TARIFF. *A utility may consolidate more than one system under a single tariff only if:*

(1) *the systems under the tariff are substantially similar in terms of facilities, quality of service, and cost of service; and*



*(2) the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.*

SECTION 10.04. Section 13.182, Water Code, is amended to read as follows:

Sec. 13.182. JUST AND REASONABLE RATES. *(a)* The regulatory authority shall ensure that every rate made, demanded, or received by any utility or by any two or more utilities jointly shall be just and reasonable.

*(b)* Rates shall not be unreasonably preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of consumers.

*(c)* For ratemaking purposes, the commission may treat two or more municipalities served by a utility as a single class wherever the commission considers that treatment to be appropriate.

*(d)* ~~The commission by rule shall establish a preference that rates under a consolidated tariff be consolidated by region. The regions under consolidated tariffs must be determined on a case-by-case basis.~~

SECTION 10.05. Section 13.183, Water Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

*(c)* To ensure that retail customers receive a higher quality, *more affordable*, or more reliable water or sewer service, to encourage regionalization, or to maintain financially stable and technically sound utilities, the regulatory authority, *by rule or ordinance, as appropriate, may adopt specific alternative ratemaking* ~~may develop~~ methodologies for water or sewer rates based on factors other than rate of return and those specified in Section 13.185. Overall revenues determined *according* ~~pursuant~~ to an *alternative ratemaking* ~~alternate~~ methodology *adopted* ~~developed~~ under this section must provide revenues to the utility that satisfy the requirements of Subsection (a). *The regulatory authority may not approve rates under an alternative ratemaking methodology unless the regulatory authority adopts the methodology before the date the rate application was administratively complete.*

*(d)* ~~A regulatory authority other than the commission may not approve an acquisition adjustment for a system purchased before the effective date of an ordinance authorizing acquisition adjustments.~~

*(e)* In determining to use an *alternative ratemaking methodology* ~~alternate ratemaking methodologies~~, the regulatory authority shall assure that rates, operations, and services are just and reasonable to the consumers and to the utilities.

SECTION 10.06. Section 13.187, Water Code, is amended to read as follows:

Sec. 13.187. STATEMENT OF INTENT TO CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. *(a)* A utility may not make changes in its rates except by delivering a statement of intent to each ratepayer and with the regulatory authority having original jurisdiction at least 60 ~~30~~ days before the effective date of the proposed change. The effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the effective date of the new rates. The statement of intent must include:

*(1)* the information required by the regulatory authority's rules;

*(2)* ~~a billing comparison regarding the existing water rate and the new water rate computed for the use of:~~

*(A)* 10,000 gallons of water; and

*(B)* 30,000 gallons of water; and

*(3)* ~~a billing comparison regarding the existing sewer rate and the new sewer rate computed for the use of 10,000 gallons, unless the utility proposes a flat rate for sewer services.~~

*(b)* A copy of the statement of intent shall be mailed or delivered to the appropriate offices of each affected municipality, and to any other affected persons as required by the regulatory authority's rules.

(c) When the statement of intent is delivered, the utility shall file with the regulatory authority an application to change rates. The application must include information the regulatory authority requires by rule. If the utility fails to provide within a reasonable time after the application is filed the necessary documentation or other evidence that supports the costs and expenses that are shown in the application, the regulatory authority may disallow the nonsupported expenses.

(d) If the application or the statement of intent is not substantially complete or does not comply with the regulatory authority's rules, it may be rejected and the effective date of the rate change may be suspended until a properly completed application is accepted by the regulatory authority and a proper statement of intent is provided. The commission may also suspend the effective date of any rate change if the utility does not have a certificate of public convenience and necessity or a completed application for a certificate or to transfer a certificate pending before the commission or if the utility is delinquent in paying the assessment and any applicable penalties or interest required by Section 5.235(n) of this code.

(e) ~~[(b)]~~ If, *before the 91st day* ~~[within 60 days]~~ after the effective date of the rate change, the regulatory authority receives a complaint from any affected municipality, or from the lesser of 1,000 or 10 percent of the ratepayers of the utility over whose rates the regulatory authority has original jurisdiction, the regulatory authority shall set the matter for hearing.

(f) The regulatory authority may set the matter for hearing on its own motion at any time within 120 days after the effective date of the rate change. If more than half of the ratepayers of the utility receive service in a county with a population of more than 2.5 million, the hearing must be held at a location in that county.

(g) The hearing may be informal.

(h) If, after hearing, the regulatory authority finds the rates currently being charged or those proposed to be charged are unreasonable or in violation of law, the regulatory authority shall determine the rates to be charged by the utility and shall fix the rates by order served on the utility.

(i) ~~[(e)]~~ The regulatory authority, pending final action in a rate proceeding, may order the utility to deposit all or part of the rate increase received or to be received into an escrow account with a financial institution approved by the regulatory authority. Unless otherwise agreed to by the parties to the rate proceeding, the utility shall refund or credit against future bills all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered plus interest as determined by the regulatory authority.

(j) For good cause shown, the regulatory authority may authorize the release of funds to the utility from the escrow account during the pendency of the proceeding.

(k) *If the regulatory authority receives at least the number of complaints from ratepayers required for the regulatory authority to set a hearing under Subsection (e), the regulatory authority may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. The proposed rate may not be suspended for longer than:*

*(1) 90 days by a local regulatory authority; or*

*(2) 150 days by the commission.*

(l) At any time during the pendency of the rate proceeding the regulatory authority may fix interim rates to remain in effect until a final determination is made *on the proposed rate*.

(m) If the regulatory authority sets a final rate that is higher than the interim rate, the utility shall be allowed to collect the difference between the interim rate and final rate unless otherwise agreed to by the parties to the rate proceeding.

(n) *For good cause shown, the regulatory authority may at any time during the proceeding require the utility to refund money collected under a proposed rate before the rate was suspended or an interim rate was established to the extent the proposed rate exceeds the existing rate or the interim rate.*

(o) If a ~~[the]~~ regulatory authority *other than the commission* establishes interim rates or an escrow account, the regulatory authority must make a final determination on the rates *not later*

than the first anniversary of ~~[within 335 days after]~~ the effective date of the interim rates or escrowed rates or the rates are automatically approved as requested by the utility.

(p) ~~[(d)]~~ Except to implement a rate adjustment provision approved by the regulatory authority by rule or ordinance, as applicable, or to adjust the rates of a newly acquired utility system, a utility or two or more utilities under common control and ownership may not file a statement of intent to increase its rates more than once in a 12-month period, unless the regulatory authority determines that a financial hardship exists. If the regulatory authority requires the utility to deliver a corrected statement of intent, the utility is not considered to be in violation of the 12-month filing requirement.

SECTION 10.07. Subchapter I, Chapter 13, Water Code, is amended by adding Section 13.343 to read as follows:

*Sec. 13.343. WHOLESALE WATER CONTRACTS BETWEEN CERTAIN AFFILIATES. (a) The owner of a utility that supplies retail water service may not contract to purchase from an affiliated supplier wholesale water service for any of that owner's systems unless:*

*(1) the wholesale service is provided for not more than 90 days to remedy an emergency condition, as defined by commission rule; or*

*(2) the executive director determines that the utility cannot obtain wholesale water service from another source at a lower cost than from the affiliate.*

*(b) The utility may not purchase groundwater from any provider if:*

*(1) the source of the groundwater is located in a priority groundwater management area; and*

*(2) a wholesale supply of surface water is available.*

SECTION 10.08. (a) The changes in law made by this article to Chapter 13, Water Code, apply to a proceeding in which the Texas Natural Resource Conservation Commission has not issued a final order before the effective date of this article; provided, however, that this article does not apply to a retail public utility for which a final order in any rate proceeding has been issued by the Texas Natural Resource Conservation Commission prior to January 1, 2001, as long as that retail public utility is the same as, controlled by, or an affiliate of the retail public utility for which a final order was issued prior to January 1, 2001. This subsection shall not be construed to permit a public utility to increase rates without obtaining the approval of the Texas Natural Resource Conservation Commission.

(b) Section 13.343, Water Code, as added by this article, does not apply to a contract executed before the effective date of this article. A contract executed before the effective date of this article is governed by the law in effect on the date it was executed, and that law is continued in effect for that purpose.

## ARTICLE 11. MISCELLANEOUS PROVISIONS

SECTION 11.01. Section 26.177, Water Code, is amended by adding Subsection (h) to read as follows:

*(h) Property subject to a permit or plat in the extraterritorial jurisdiction of a municipality may not be subjected to new or additional water pollution regulations if the property is transferred to another municipality's extraterritorial jurisdiction, and all provisions of Chapter 245, Local Government Code, shall apply to the property. If the release of extraterritorial jurisdiction for the purpose of transferring it to another municipality results in property not being subject to any municipality's water pollution regulations on the date of release, the releasing municipality retains its jurisdiction to enforce its water pollution regulations until the property is included in the extraterritorial jurisdiction of the receiving municipality.*

SECTION 11.02. Section 26.359, Water Code, is amended to read as follows:

*Sec. 26.359. LOCAL REGULATION OR ORDINANCE. (a) In this section, "local government" means a school district, county, municipality, junior college district, river*

authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

(b) ~~A [This subchapter establishes a unified statewide program for underground and surface water protection, and any local] regulation or ordinance adopted by a local government that imposes standards [is effective only to the extent the regulation or ordinance does not conflict with the standards adopted] for the design, construction, installation, or operation of underground storage tanks is not valid [under this subchapter].~~

(c) *This section does not apply to a rule adopted by the Edwards Aquifer Authority, or to a regulation or ordinance in effect as of January 1, 2001, or thereafter amended.*

SECTION 11.03. (a) Section 27.051, Water Code, is amended by adding Subsection (h) to read as follows:

(h) *The commission may not authorize by rule or permit an injection well that transects or terminates in the Edwards Aquifer. The commission by rule may authorize injection of groundwater withdrawn from the Edwards Aquifer, or injections of storm water, flood water, or groundwater through improved sinkholes or caves located in karst topographic areas. For purposes of this subsection, "Edwards Aquifer" has the meaning assigned by Section 26.046(a).*

(b) The change in law made by Subsection (h), Section 27.051, Water Code, as added by this section, applies only to an application for a permit that is filed with the Texas Natural Resource Conservation Commission on or after September 1, 2001.

SECTION 11.04. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 [115,000] or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 100,000 [93,000] or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

## ARTICLE 12. NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY

SECTION 12.01. Subsection (a), Section 4.06, Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(a) The authority may:

(1) acquire and provide by purchase, gift, [or] lease, *contract, or any other legal means*, a water treatment or supply system, *or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority, or any interest in those assets*, inside of or outside of the authority's boundaries;

(2) design, finance, or construct a water treatment or supply system, *or any other supply systems, or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority*, and provide water services inside of or outside of the authority's boundaries;

(3) *maintain*, operate, lease, or sell a water treatment or supply system, *or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority*, that the authority constructs or acquires *inside of or outside of the authority's boundaries*; and

(4) contract with any person to operate or maintain a water treatment or supply system the person owns.

ARTICLE 13. REPORTS; REPEALER; TRANSITION; VALIDATION;  
EFFECTIVE DATE

SECTION 13.01. BOARD STUDY AND REPORT ON FINANCING WATER INFRASTRUCTURE PROJECTS. The Texas Water Development Board shall consider the reports submitted by the regional planning groups under Subsection.(q), Section 16.053, Water Code, as added by this Act, relating to financing water infrastructure projects and shall consult with potentially impacted groups and other interested persons regarding the information reported and the recommendations made by the regional planning groups. Not later than October 1, 2002, the board shall submit to the legislature a report consisting of the regional planning groups' reports and the board's analysis of and recommendations regarding those reports.

SECTION 13.02. REPEALER. Sections 35.005 and 35.006, Water Code, are repealed.

SECTION 13.03. TRANSITIONS. (a) The changes in law made by this Act by amending Section 17.895, Water Code, and adding Section 17.8955, Water Code, apply only to a conservation loan for which an application is filed on or after the effective date of this Act. A conservation loan for which an application was filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Not later than January 1, 2002, the Texas Water Development Board shall adopt rules to administer Subchapter O, Chapter 15, Water Code, as added by this Act, including rules establishing procedures for applications for and the award of financial assistance for water projects, for the investment of funds, and for the administration of the water infrastructure fund, as created by this Act.

(c) Not later than January 1, 2002, the Texas Water Development Board shall adopt rules to administer Subchapter P, Chapter 15, Water Code, as added by this Act, including establishing procedures for the application for and award of loans, the distribution of loans, the investment of funds, and the administration of loans and the rural water assistance fund, as created by this Act.

(d) Not later than January 1, 2002, the Texas Water Development Board shall adopt rules requiring a holder of a surface water permit, certified filing, or certificate of adjudication for surface water, a holder of a permit for the export of groundwater from a groundwater conservation district, a retail public water supplier, a wholesale water provider, and an irrigation district to report to the board information on certain water pipelines and other facilities that can be used for water conveyance.

(e) The changes in law made by this Act by amending Sections 11.023 and 11.122, Water Code, shall not change the existing priority of any industrial water right holder on the mainstem of the Rio Grande below Amistad Reservoir who uses or supplies water to a nursery grower.

(f) If any changes made by this Act to Chapter 36, Water Code, conflict with changes made to Chapter 36, Water Code, by any other Act passed by the 77th Legislature, Regular Session, 2001, this Act shall prevail.

SECTION 13.04. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of the state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13.05. SEVERABILITY. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 13.06. EFFECTIVE DATE. This Act takes effect September 1, 2001.

Passed the Senate on April 19, 2001, by a viva-voce vote; May 23, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 24, 2001, House granted request of the Senate; May 27, 2001, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 22, 2001, by a non-record vote; May 24, 2001, House granted request of the Senate for appointment of Conference Committee; May 27, 2001, House adopted Conference Committee Report by a non-record vote.

Approved June 15, 2001.

Effective September 1, 2001.

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## CHAPTER 967

S.B. No. 5

AN ACT

relating to the Texas emissions reduction plan.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. (a) It is the intent of the legislature to give the Texas Natural Resource Conservation Commission additional tools to:

(1) assure that the air in this state is safe to breathe and meets minimum federal standards established under the federal Clean Air Act (42 U.S.C. Section 7407);

(2) develop multipollutant approaches to solving the state's environmental problems; and

(3) adequately fund research and development that will make the state a leader in new technologies that can solve the state's environmental problems while creating new business and industry in the state.

(b) Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapters 386, 387, 388, and 389 to read as follows:

### CHAPTER 386. TEXAS EMISSIONS REDUCTION PLAN

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 386.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Texas Emissions Reduction Plan Advisory Board.

(2) "Affected county" includes:

(A) Bastrop County;

(B) Bexar County;

(C) Caldwell County;

(D) Comal County;

(E) Ellis County;

(F) Gregg County;

(G) Guadalupe County;